SENATE—*Monday May 16, 1988*

(Legislative day of Monday, May 9, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, on this beginning day of the work week, in this moment of reflection, when we lift our minds and hearts of reflection, when we lift our minds and hearts Godward, we worship Thee in the words of King David's song: "* * * The Lord is my rock, and my fortress, and my deliverer; the God of my rock; in him will I trust: he is my shield, and the horn of my salvation, my high tower, and my refuge, my saviour * * *. God is my strength, and power: And he maketh my way perfect."—II Samuel: 22:2-3, 33. Turn our minds and hearts to Thee, O Lord, extricate us from total immersion in the mundane—the pragmatic, the carnal. Let the light of truth and justice illuminate our way, individually and corporately, this week. Make Thy presence felt in our midst and work Your will to Your glory and the benefit of all people. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 16, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his reading of the beautiful Scripture lines. It is an excellent way to start the day and the week.

I ask unanimous consent that I may reserve my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

SORZANO RESIGNATION

Mr. DOLE. Mr. President, the Morning Press reports—and I have confirmed—that Ambassador Jose Sorzano, a senior staff member of the National Security Council, intends to offer his resignation shortly, as a result of differences over American policy in Central America.

I happen to be sympathetic to the policy concerns that I know trouble Ambassador Sorzano. But—policy aside—it is deeply regrettable that the administration may soon lose the talents and dedication of this outstanding man. And I might note that I had the opportunity to see those talents operating up close, when Jose accompanied my Senate delegation to Central America last year.

Jose Sorzano has served this administration with distinction, both at the NSC and, prior to that, at the United Nations, as a deputy to Jeane Kirkpatrick. He is an articulate advocate for the viewpoint that America is really, and not just rhetorically, the best hope for freedom in the world today. He is a strong supporter of the proposition that we ought to be out there in the world, not just defending our own freedom, but seeking to expend the frontiers of freedom around the globe.

His is a voice all of us need to hear and heed; his a talent this administration sorely needs to retain.

I hope that senior administration officials will encourage Ambassador Sorzano to stay on. Whatever his final decision, though, Jose has my deep respect, and my best wishes.

BICENTENNIAL MINUTE

Mr. DOLE. Mr. President, from time to time I have been reporting to my colleagues a bicentennial minute, since this is the bicentennial year, of things that happened in the past in the Senate that I think may be of interest to my colleagues.

MAY 16, 1868: DRAMATIC SENATE FIRST VOTE TO REMOVE A PRESIDENT

Mr. President, 120 years ago today, on May 16, 1868, for the first time in history, the Senate voted on an article of impeachment lodged against a President of the United States. By a tally of 35 to 19, the Senate fell 1 vote short of the two-thirds margin necessary to remove President Andrew Johnson from Office.

During the Constitution Convention of 1787, the delegates gave close attention to the Senate's role in impeachment trials. Several argued that the President should not be impeachable, for this would make him too dependent on the legislature. In opposition, Benjamin Franklin asserted that there must be some ultimate limitation on Presidential power and that impeachment was a method of removal greatly to be preferred to the alternative—assassination.

The Convention struggled over the definition of an impeachable offense. Early draft language identified these offenses as "neglect of duty, bribery, maladministration, or corruption." Finally, the delegates settled on "high crimes and misdemeanors" as encompassing the above terms.

Early in their deliberations, the framers wrestled with the apparent conflict of giving the Senate the power to elect the President, as was then contemplated, and also the power to remove him. At first they tried to solve this by having the Supreme Court and the Senate jointly conduct impeachment trials. Late in the Convention, after the framers devised a special electoral college to select Presidents, the way was cleared for the Senate alone to try impeachments of all Federal officers, including Presidents. In trials involving a President, the Chief Justice of the United States would preside, keeping the Vice President, who would normally preside from the impropriety of conducting a trial that might result in his own elevation to the Presidency.

Although the Senate has conducted only one impeachment trial against a President, its power of removal remains a vital safeguard of our liberties.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE TRADE BILL

Mr. DOLE. Mr. President, I know that the trade bill has been sent to the President. I think it arrived on Friday the 13th.

I assume the President, in keeping with public statements he has made and statements he has made to many of us, will veto that bill.

I know that one provision the President is strongly opposed to is the so-called plant closing. But there are other provisions in the bill that I would hope that the President would detail in his veto message because, in my view, there are numerous provisions that should be modified or dropped from the trade bill before the President sends up his veto message that should be addressed in that veto message.

If that is done, it is my hope that before the year is out the House and the Senate can get together on another trade bill, pass it promptly in the House, hopefully quite quickly in the Senate, and send it back to the President for his signature, because overall the trade bill is not bad.

There has been a lot of work. Senators BENTSEN and PACKWOOD, in particular, in the Senate have spent weeks and weeks and weeks and months and months trying to devise a trade bill.

There are some provisions that I believe the Senate will hopefully delineate in his veto message that should be altered, modified, or deleted.

If that is done, I would hope that we will have a trade bill.

Plant closing has been the one issue discussed publicly. In my view, there are other matters just as important. It is not a matter of notice to the employees. It is a matter of whether the Government should become involved in the private sector and start telling a business what they can and cannot do.

But in any event, the bill is now at the White House. I assume at some time in the next couple of weeks the President will make his decision and send us a message.

Mr. President, I reserve the remainder of my time.

AMERICAN PUBLIC OPINION SAYS ECONOMY NOT MILITARY NO. 1 PRIORITY

Mr. PROXMIRE. Mr. President, the Council for a Livable World has recently published a number of public opinion poll results that show a strong consensus toward economic over military priorities. The polls were conducted during two periods. The first polling period was between October 15 and 20 of last year. The second polls occurred between February 17 and 24 of this year. Based on these polls, how do our constituents evaluate the strength of our country? A nationwide sample of 1,505 persons were asked: "Do you agree or disagree? In today's world a country's economic power is more important than military power in determining its international influence." 67 percent agreed, 20 percent disagreed, 13 percent responded "don't know."

Responses to a second question indicated a similar view. Asked: "When people talk about the strength of the United States they sometimes mean different things. Which of the following come closest to the way you think about the strength of the United States?" Of the 93 percent of the respondents who had an opinion only 14 percent said "military strength." Another 3 percent said, "Getting our way with other countries." The other 76 percent responded as follows: Unity of the American people, 26 percent; economic strength, 21 percent; setting a moral example to the world, 16 percent; a strong education system, 13 percent.

Asked: "Which do you think is more important—investing in a strong economy or a strong military, or don't you have an opinion?" 59 percent responded "economy," 14 percent "military," 23 percent replied "both," 4 percent replied "don't know."

A reason for this emphasis on economic instead of military strength was disclosed by respondees to a fourth question. Asked: "Which of the following do you think is the greatest threat to the future of the United States?" Respondents declared: "Economic troubles within the United States, 48 percent; terrorism from third world countries and extremist groups, 31 percent; the military strength of the Soviet Union, 17 percent, don't know, 4 percent."

Taken together, these responses show an American public that understands that the security of our country fundamentally rests on its economic strength. Behind that widespread American conviction is the knowledge that economic capability is quintessential for military strength. There is also the fact that as President Eisenhower told us, excessive military spending drains the economy. Such spending diverts our economic resources from improving education and health and from building a more efficient and productive industry. The resources instead flow into amassing a vast military arsenal that will cost billions to maintain. Many American are also struck with the irony that the superpowers are building their huge military establishments during a period in which infinitely destructive nuclear power makes a superpower war a certain loser for both sides and therefore an event that will almost certainly never take place. When the President of the United States and the Secretary General of the Communist Party of the Soviet Union agree that a nuclear war can never be won and must never be fought, and when virtually every informed scientific expert fully agrees, the arms race between the two superpowers is the ultimate waste.

The Council for a Livable World cites this question, asked of a scientifically selected sample of 1,505 Americans nationwide, "Over the last 6 years the United States has increased its military spending. Has this military buildup made you feel more secure, about the same, or less secure than you felt 6 years ago—or haven't you thought much about this?" The response: 42 percent said that the big military buildup had made no difference. Another 20 percent replied that they felt less secure. Only 31 percent responded that the buildup had made them feel more secure. Seven percent had no opinion.

Asked, "How much waste, fraud and inefficiency do you think there is in defense spending—a lot, some, not very much or none at all?" sixty-eight percent responded "A lot," 28 percent said, "Some"; only 2 percent said, "Not very much"; 2 percent said, "Not sure."

Asked whether the United States should try harder to reduce tensions with the Russians or get tougher in this dealing with the Russians, 64 percent said reduce tensions; 26 percent said get tougher; 7 percent said follow present policy; 2 percent said, "Don't know."

Asked what are the most important problems the next President should work on, only 14 percent mentioned "Strengthening our national defense." And in response to a question on what should be the most important goals of American foreign policy, only 22 percent said "containing Soviet expansion." This contrasts with 62 percent who specified "strengthening our economy to be more competitive with other countries."

Mr. President, these responses show strong support for negotiating agreements with the Soviet Union to terminate the arms race on all fronts—nuclear and conventional, and concentrating our energies on building an economically stronger, better educated, healthier country.

NATIONAL DEFENSE AUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 2355, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2355) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

D'Amato Amendment No. 2070, to provide for the imposition of the death penalty for drug-related killings.

D'Amato Amendment No. 2071 (to Amendment No. 2070), to provide additional protections for law enforcement officials.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2079

(Purpose: To propose a substitute for section 802)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2079.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 93, strike out line 15 and all that follows through page 94, line 23, and insert in lieu thereof the following:

SEC. 802. GUIDANCE ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe guidelines that provide that a fixed-price contract should be awarded in the case of a development program conducted by the Department of Defense only when—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The Secretary of a military department and the head of a Defense Agency may not award a firm fixed-price contract in excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines and states in writing that the award of such contract is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the guidelines prescribed under such paragraph.

(B) The Under Secretary of Defense for Acquisition may delegate his authority under subparagraph (A) only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section:

(1) The term "Defense Agency" has the same meaning as is provided in section 101(44) of title 10, United States Code.

(2) The term "major system" has the same meaning as is provided in section 2302(5) of title 10, United States Code.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, the bill presented by the Armed Services Committee contains a new provision, which is section 802. It concerns the use of fixed price contracts in research and development programs. This is an issue we had faced in the Department of Defense appropriations bill for this current year. It was originally proposed by the House Appropriations Committee.

The present provision in this bill before the Senate, introduced by my good friend, the distinguished Senator from New Mexico, Senator BINGAMAN, places a limit on the use of firm fixed-price contracts in full-scale engineering development programs. My concern is not so much with the issue of the use of this contracting mechanism. I am worried by the precedent of the Congress restricting specific contracting practices of the Department of Defense.

I agree with the Senator from New Mexico that most research and development programs are too immature and not sufficiently defined to permit a rigid contracting structure. I agree that we must be wary in attempts to save money in the R&D phase by forcing contract terms. We probably could save a dollar in R&D costs, however, only to spend $5 in procurement change orders if we are not careful.

Last year we faced an even more stringent proposal from the House Appropriations Committee. I opposed that initiative, also. Ultimately, in conference, we settled on report language that is contained in the report that accompanied the continued resolution.

I believe the proposal in the bill that is before the Senate now takes a more reasoned approach to the issue. My amendment limits the force of that provision to 2 years, through September 30, 1990. This limitation will provide both the Department of Defense and Congress an opportunity to study the issue and evaluate the use of fixed-price contracts in R&D programs.

We should be careful not to tie the hands of the program managers and contract officials at the Pentagon with too many legislative restrictions as we continue to tighten defense budgets and demand even more bang for the buck. We must not forestall contracting and management options that can prevent gold plating of some of the weapon systems.

I do express my appreciation, Mr. President, to the Senator from New Mexico for his consideration of my concerns, and the managers on both side of the aisle who are managing this bill on the floor for their assistance and cooperation and that of their staffs in reaching an accommodation on this amendment. As a member of the Defense Appropriations Subcommittee, I look forward to working with them in monitoring this issue now.

This compromise, I think, will avoid more restrictive legislation in the appropriations process this year. This is a provision that I think both the authorizing committee and the Appropriations Committee can live with for at least a 2-year period to study the impact of such a restriction.

I ask my good friend from Georgia and my friend from Virginia if this amendment is acceptable.

Mr. WARNER. Mr. President, we have had the opportunity to examine the amendment of the Senator from Alaska. It is acceptable to this side.

Mr. NUNN. Mr. President, it is my understanding the Senator's major change here is to convert a permanent provision on a fixed-price contracting provision into a 2-year provision to determine whether it is working and give us a chance to assess it without making it permanent. Is that correct?

Mr. STEVENS. The Senator is correct. That is the major change. It makes a fixed time period during which we can analyze the impact of this.

Mr. NUNN. I think this is a good amendment. This is a complicated area. While we want fixed-price contracting anytime we can get it where it makes sense, there were some instances here in the last several years that the Department of Defense has insisted on fixed-price contracting when the elements of risk and when the research was at a very primitive stage and made it impossible to have a sensible fixed-price contract.

We are trying to strike a proper balance under the rules of fixed-price contracting in that area, the R&D area, as opposed to the procurement area. I believe the 2-year limitation will give us a chance to further assess that. So I would urge our colleagues to support the amendment.

Mr. STEVENS. Mr. President, I thank the Senators from Virginia and Georgia for their comments. I might say that it is my goal to avoid this issue in the appropriations conference which, by its very nature, is going to take place much later in the session. If the authorizing committee from the Senate can obtain approval of the authorizing committee from the House on this measure, I think it will eliminate a substantial controversy between the House and the Senate in the appropriations conference.

Mr. President, I ask that the amendment be adopted.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska [Mr. STEVENS].

The amendment (No. 2079) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2080

(Purpose: To require the Secretary of Defense to determine whether the allowability of foreign selling costs under Department of Defense contracts will result in cost advantages for the United States)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro termpore. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2080.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro termpore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, strike out lines 15 through 17 and insert in lieu thereof the following:

agreements that—

(i) are negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements; and

(ii) are entered into after the Secretary determines that cost advantages for the United States will result from allowing such foreign selling costs under such agreements.

Each of the budget requests submitted to Congress by the Secretary after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1989 shall reflect such cost advantages.".

Mr. STEVENS. Mr. President, this amendment applies to section 807 of the bill which pertains to foreign selling costs.

Mr. President, if enacted, section 807 of this bill would have the effect of reversing a government policy which has been in effect for nearly 10 years which prohibits the allowability of contractor costs associated with foreign marketing endeavors. Over the past year, the administration has sent mixed signals as to its position on this matter. Clearly, the defense industry feels that such a policy reversal would be beneficial.

Given the uncertainty as to the Government's position on this issue as well as misgivings over the fiscal prudence if such costs were allowable, the annual appropriations bill has incorporated a prohibition against regulation changes to make such costs allowable. Section 8062 of the fiscal year 1988 Appropriations Act contains this prohibition.

Last month, the deputy inspector general, Derek Vander Schaaf, testified before the Senate Armed Services Committee on this issue. He stated:

It is our position that there should be a direct and beneficial relationship to the Department prior to our assuming costs from foreign marketing activities.

I ask unanimous consent that Mr. Vander Schaaf's statement be printed in the RECORD immediately following my prepared remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. The IG's position argues against the allowability of foreign marketing expenses absent a clear indication of financial benefit to the U.S. Government. The Appropriations Committee sponsored prohibitions on allowability of such costs has been based on the same concerns expressed by the Defense Inspector General's Office.

While section 807 would permit foreign selling costs as an allowable expense, this section does represent the first serious attempt to define the parameters under which allowability of such costs may accrue some benefits to the United States.

The provision recommended by the Armed Services Committee requires the negotiation of advance agreements between contractors and the Secretary of Defense to determine the nature and scope of foreign marketing costs to be allowable. This is a step in the right direction, but the inspector general also points out that the criteria for determining such advance agreements under the terms of the committee-sponsored provision is somewhat vague.

In an effort to alleviate this concern and clarify the requirements, I propose an amendment to section 807. This comes from our prior work on the Appropriations Subcommittee on the same subject. The amendment would require that the Secretary determine that cost advantages will accrue from allowing such foreign selling costs and that these savings be reflected in the annual budget requests submitted to Congress.

Having sponsored the provision to prohibit these costs in the annual appropriations bills, I am still not entirely convinced that permitting foreign marketing expenses within allowable contract overhead is beneficial to the United States and I continue to share the reservations expressed by the Defense Inspector General's Office. However, there is also a volume of evidence which motivated Deputy Secretary of Defense Will Taft to find benefit in this cost accounting approach. At a minimum, my amendment to section 807 establishes a "means test" on the prudence of incurring such expenses if they are in fact considered to be allowable.

Thus, as amended, section 807 goes a long way toward addressing the concerns which led to the enactment of prohibitions in the appropriations bills. Assuming section 807 is part of the enacted bill as amended by this amendment that I submitted, the need to consider this matter in future appropriations bills will be substantially alleviated, I think, if not eliminated.

EXHIBIT 1

STATEMENT BY DEREK J. VANDER SCHAAF, DEPUTY INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, BEFORE THE SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY, SENATE ARMED SERVICES COMMITTEE, ON PROPOSED DEFENSE INDUSTRY AND TECHNOLOGY AMENDMENTS OF 1988

FOREIGN SELLING COSTS

The Bill would make foreign selling expenses allowable costs to defense contracts provided they are allocable, reasonable and not otherwise unallowable. Further, the Bill requires that the Department set annual dollar ceilings, by contractor, on the amount of foreign selling expenses allocable to defense contracts.

We have in the past and continue to oppose any changes in legislation or regulations that would make foreign selling expenses an allowable cost on defense contracts. Our opposition to the proposed legislation on foreign selling costs is based on several factors. These include:

1. Lack of a direct and beneficial relationship to the Defense Department from the financing of such costs;

2. Funds allocated to foreign selling costs could be better used in other ways to more improve the competitiveness (productivity and reliability) and cost-effectiveness of contractors; and

3. A large portion of defense equipment and service purchases made by foreign governments are paid for through United States foreign assistance appropriations that are required to be spent in the United States.

In 1985, the Congressional Budget Office looked into the potential costs and benefits that could be anticipated from allocating foreign selling costs to defense contracts. In a July 1985 letter on this subject to Senator Stevens, the Director of the Congressional Budget Office stated:

"It is unlikely, however, that there would be any increase in foreign sales to offset additional budget costs . . . foreign sales are such an integral part of the business that marketing is unconstrained by cost allocability. Also, DoD and industry representatives agree that other political and economic constraints probably limit any increase in sales. If this is so, repealing the prohibition could cost the Federal Government as much as $80 million to $300 million or more per year."

It is our position that there should be a direct and beneficial relationship to the Department prior to our assuming costs from foreign marketing activities. Obviously, there may be some indirect benefit to the Department if, as a result of foreign marketing activities, the overall Defense business base is enlarged. Our initial reaction is one of visualizing increased costs to the DoD with only a nebulous benefit from potentially increased sales. Thus, from an accounting point of view, there is a serious question on the allocability of such spending.

As I mentioned earlier, a major portion of foreign sales are financed by U.S. foreign assistance appropriations. The foreign governments are required under these appropria-

tions to purchase equipment and material from U.S. contractors. Accordingly, I fail to see commensurate benefits to the Defense Department or the U.S. Government by paying contractors for selling expenses on items that have to be purchased from them by law. I would compare this to Department of Defense paying selling expenses to a contractor that is the current sole source supplier of a weapons system. In both cases whether we paid such selling costs or not, the Defense Department and the foreign government would still purchase the items from the contractor.

Further, rather than paying for the entertaining of foreign officials, I believe that alternative uses of such funds would provide a greater benefit to the Defense Department. These funds should be used to support existing contractor productivity enhancement and improvement programs such as the Industrial Modernization Incentives Program. Such an action would directly contribute to improve competitiveness of U.S. producers and lower costs to the Defense Department.

Currently corporate decisions to incur foreign marketing expenses are based on good business judgment. In effect the proposed legislation would move the basis of such decisions from good business sense to a question of "Will the government underwrite this expense?" In other words, if the federal government is willing to foot the bill for overseas selling expenses, nearly everyone would opt to incur the reimburseable cost.

Finally, I have concerns about the feasibility and potential problems associated with the establishment and administration of annual dollar ceilings on foreign selling costs. What criteria would be used to establish such ceilings in view of the problems associated with determining the actual or potential benefits of such costs? To what extent will we approve the expenditure of DoD funds to finance the competition of two or more U.S. companies vying to sell the "same" item. Moreover, defense contracting officers would be subjected to extreme external pressures in setting such ceilings which would increase the opportunities for abuses and fraudulent activities.

I believe this amendment now has been agreed to on both sides and again I thank the managers of the bill and their staffs for their cooperation and patience in attempting to work this out. I think it will work it out, so this will be one other area that we will bury the hatchet between the authorizing committee and Appropriations Committee.

Again, I inquire of my good friends if this is the case?

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. The Senator from Alaska correctly represents the sentiments of this manager and I urge the adoption of the amendment.

Mr. NUNN. Mr. President, this is another area where we have had a difference in policy with the Appropriations Committee. I do not think the difference is a major difference because both of us want to prevent abuses and both of us want to allow the appropriate costs.

The Senator from Alaska has made some good points relating to the cost-overhead factor in the foreign sales cost factor and how it ought to relate to overhead. I believe this amendment is an appropriate balance between the various considerations here; between the consideration on the one hand to make sure that the Government costs do go down and on the other hand to make sure that the appropriate costs are passed on in appropriate manner, after having been approved in concept by the Department of Defense.

So, this is a good amendment. We urge its adoption.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I just add that one member of the industry came to me and commented upon the appropriations provision, that they had originally opposed, saying that as a result of the provision they have analyzed some of their overseas marketing costs and found that they should not be incurring them anyway.

So it has brought about, I think, an understanding of concerns of the Congress and, in view of the statement of the Department's Inspector General, I think this is a proper solution and it should eliminate the difficulties between the two committees. I ask adoption of the amendment.

The ACTING PRESIDENT pro tempore. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2080) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. There is another matter I will not get into. I understand there is a negotiation between the Senator from Louisiana representing the chairman of our Appropriations Committee, Senator STENNIS, and the manager of the bill, concerning section 903.

I can only state that I am not going to ask for a rollcall vote on that. This is a decision that has been made in the negotiations between the members of the staff.

Senator HATFIELD, the ranking member on our side, will be back in the Senate, I am informed, in just a few minutes.

I do want to say on the record, however, that although I will not oppose the conclusion that, I believe, has been reached by the staffs of the full committees, it does seem to me that the inclusion of the P-3 aircraft that we authorized to be procured for the Navy Reserve being deauthorized and the specific requirement that that money not be obligated and expended, is not a good conclusion.

The other three items, I think, in the restriction on appropriated funds from the appropriations account are, under the circumstances, a matter of negotiation and I can see some differences of opinion with regard to those three items. They were not substantial. But in all probability they can be covered—I hope they will be covered—by authorizations soon. I specifically mention the coastal defense augmentation account of $20 million.

I also believe that was something that should move and, in view of the fact that we had other items that we could not agree to, we allocated money to the coastal defense augmentation account in the appropriations process connected with continuing resolution last year.

But the Navy Reserve needs these P-3's, in my judgment. It is not a question of just allocating money that we found we had no appropriate emergency use for compared to the other. In this instance, the P-3 aircraft to be procured for the Navy Reserve would put them in the position of having a vital piece of equipment to assist in activities related to our coastal defense. I really think that money should be made available.

As I said, I have talked to the Senator from Louisiana, Mr. JOHNSTON, and those moneys are to be made available for other programs under this agreement. Those programs include operation and maintenance to prevent the furlough and separation of civilian employees in other high-priority readiness programs. I appreciate the fact we have a great need for money there, but I am concerned that the moneys that would otherwise have been available for the Navy Reserve for the procurement of P-3 aircraft will be eliminated by this compromise that has been negotiated.

I hope that the authorizing committee will keep in mind, as it goes to conference, our real concern over those moneys. And if there is a disagreement in conference on the part of the House with regard to that section—I might add, the House did have a similar section in its authorizing bill and deleted it, it is my understanding.

I hope, since this will be going to conference, that perhaps the distinguished managers of this bill could reconsider and make some money available for the P-3C aircraft that both the Guard and the Reserve need.

Thank you, Mr. President.

Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

AMENDMENT NO. 2081

(Purpose: To make a contract goal for minorities applicable to printing, binding, and related services required by the Department of Defense)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2081.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 131, between lines 13 and 14, insert the following:

SEC. 823. APPLICABILITY OF CONTRACT GOAL FOR MINORITIES TO PRINTING-RELATED SERVICES.

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Notwithstanding sections 501 and 502 of title 44, United States Code, and section 309 of the Legislative Branch Appropriations Act, 1988 (as contained in section 101(i) of Public Law 100-202 (101 Stat. 1329-310)), printing, binding, and related services needed by the Department of Defense may be procured from entities referred to in subsection (a) in order to meet the objectives set out in such subsection. The procurement of printing, binding, and related services from such entities shall be conducted for the Department of Defense by the Public Printer as directed by the Secretary of Defense. Printing, binding, and related services needed by the Department of Defense and not procured from such entities shall be procured from the Government Printing Office.".

Mr. WARNER. Through the years, I and a number of us in this Chamber have worked carefully on the DOD authorization bill to try and make some slow progression providing for more opportunities for the small disadvantaged businesses of America to participate in the enormous amount of contracting done with the Department of Defense.

At the present time, the Department of Defense exclusively does its printing through Government channels. The Department accepts this amendment, and it is my understanding the other side, likewise, accepts this.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. Mr. President, we have consulted with the Senator from Virginia on this amendment. It has been worked over carefully with the staff, and I urge its adoption.

Mr. WARNER. Mr. President, I thank the distinguished Senator. I urge its adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2081) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement, 90 minutes are reserved on an amendment which Senator BREAUX and I will shortly put in with respect to the DDG-51, otherwise known as the Aegis Destroyer Program.

We will bring that up in just a few minutes, and I want to take this opportunity to alert those Senators who are interested in that program to come to the floor and participate in that discussion.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. DIXON pertaining to the introduction of legislation appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. DIXON. Mr. President, I suggest the absence of quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2082

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself and Mr. BREAUX, proposes an amendment numbered 2082.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 8 at lines 10 through 12 delete subparagraph (ii) and insert in lieu thereof the following:

"(ii) is necessary to meet the cost, schedule, or performance requirements of the Navy determined by the Secretary.

"Such certification may not be issues until after the bids for such competition are received."

Mr. JOHNSTON. Mr. President, this amendment presents a very narrow question but a very vital and important question. That question is, Shall the $20 billion Aegis Destroyer Program be determined by free and open competition or should that be restricted to two shipyards?

The amount of money involved, Mr. President, could be an incredible amount for the Government.

The question presents itself, Mr. President, in the following way: The present law requires that for the current fiscal year any ships bid under this program be under free and open competition and not restricted to any shipyard.

The House Armed Service Committee overruled that requirement of present law and determined that it should be restricted. The Senate Armed Services Committee inserted a provision which purports to give free and open competition but which in effect does not.

What the present provision of the Senate Armed Services Committee bill provides is that in effect competition cannot be limited "unless the Secretary certifies to Congress that the limitation of such competition to such contractors (i) will result in a lower total cost to the United States * * * or, (ii) is necessary to meet the cost, schedule, performance, or other requirements of the Navy determined by the Secretary."

Now, what our amendment does, Mr. President, is to take out that phrase "or other requirements of the Navy" and, second, it says that certification by the Secretary must be made after the bids are received.

In effect, Mr. President, to say you are going to have a free and open competition and not know what the ground rules are, to have some language like the Secretary of the Navy can present a certification that says "or other requirements of the Navy" is to simply do away with free and open competition. Here is the offending phrase, Mr. President; "or other requirements."

Now, in the 90 minutes reserved for this amendment, I am going to be asking repeatedly, what in the name of all that is good and holy does this mean. What does "or other requirements" as determined by the Secretary of the Navy mean?

Why, it does not mean anything. It means whatever the Secretary of the Navy wants to say "or other requirements" means.

It sort of reminds me, Mr. President, of when my daughter, Sally, was a sophomore in high school. And one morning she came by, one Saturday morning, and she said, "Dad, can I

borrow your credit card." She said, "I want to go buy a sweater and stuff." Unfortunately, all I heard was "sweater," and I did not focus on the "and stuff." So she came back that evening and I said, "Well, Sally, what did the sweater cost?" She said, "Well, Dad, you know, I got a few other things. I got some shoes, and I got a dress, and I got a blouse." And the sweater did not cost but $25, but the "and stuff' cost about $150.

Mr. WIRTH assumed the Chair.

Mr. JOHNSTON. Mr. President, I do not know why they did not use that phrase "and stuff" because it is more colorful than the phrase "or other requirements." It is no more specific. It is no more meaningful. It is no more substantive than the phrase "or other requirements."

The problem here is if you are going to have free and open competition you have to know what the groundrules are.

Our shipyard down there, Avondale, tells us that it costs $1.5 million to submit a bid. You are not going to spend $1.5 million and take all the time of your top executives submitting a bid if, after the bid is in and you are the low bidder, they came up and then say, "Aha, catch 22, we have some other requirements." The other requirements are that you cannot buy in-house and/or you must be in Maine or you must be in a State that has a lobster population right offshore because our workers like to eat lobster. I do not know what it means, Mr. President. It does not mean anything.

What is all this about, Mr. President? How did all of this come about that the Senate Armed Services Committee could have such a vague provision?

What is at stake here, Mr. President, in addition to a $20 billion program is our shipyard, Avondale in New Orleans, tells us that they have 5,800 employees now, and that without the ability to bid and without gettting on this program they might go down to 2,000 employees. So it may be 4,000 employees. Competition for those employees is very keen, indeed. The Bath Iron Works in Maine would like to keep all those employees. There is a shipyard in Mississippi; there is one in Seattle; there is another one in California. The fact of the matter is that the number of ships to be built is decreasing, and the number of shipyards is still very great.

So all shipyards want the opportunity to build these ships. And the question is whether you decide that based on what? Personality, whether you are on the Senate Armed Services Committee, or whether you are on a committee or not, or other requirements, or whether you decide on the basis of free and open competition.

What happened in this competition in the past, Mr. President, is in 1985, the first competition took place for one ship. Bath won that. By the way, that first ship has not been completed yet. But they won the first competition.

The second competition was for three ships. That was in fiscal year 1987. The RFP, that is the request for proposals, specifically stated it was for fiscal year 1987. It was for three ships or for two ships and one option. And it provided that the Navy would give at least one of those ships to Bath. That is the shipyard in Maine. If they were not the low bidder, then they would negotiate. What happened? The Ingalls shipyard, the first shipyard, came in at the low bid of $160 million. So they got the first ship. Avondale came in second at $148 million. But they did not get the second ship, according to the provisions of that RFP. Bath, which had a $263 million or about $89 million over Avondale, entered into negotiations with the Navy. And they negotiated them down to $190 million, still above Avondale. But they negotiated them down to $190 million.

So that at present Bath has two ships, one which they won on the first bid, the one which they won on the second bid by negotiating down, and the third ship is at Ingalls in Mississippi.

Mr. President, after this bidding was over in August 1987, the Navy sends a letter to Avondale, and says, well, notwithstanding the fact—well, they did not say notwithstanding the fact. This is editorial comment on my part. They said in effect notwithstanding the fact that these RFP's were limited to the fiscal year involved, fiscal year 1987, they said from now on we are going to limit this binding program to Bath and to Ingalls.

In the first place, Mr. President, that is illegal under the Competition in Contracting Act. The Competition in Contracting Act says that the full and open competition shall be used by the Department of Defense subject only to certain exemptions and those exemptions are limited only to the fiscal years for which procurement is to be made.

So to say that you are going to have competition and pick two shipyards for a $20 billion program from here on out is not possible under the Competition in Contracting Act.

So I ask my colleagues to remember, Mr. President, the position of the Senator from Maine in the Senate Armed Services Committee that there has been an open competition for this program. There has not. And the Competition in Contracting Act would prevent that. It is not legal. It is not proper under the Competition in Contracting Act to make exemptions from free and open competition for anything more than the one procurement for which the RFP is submitted.

Mr. President, is the Navy asking for this change in the law which is submitted in the Senate Armed Services Committee bill? The answer is no, Mr. President. Under Secretary Costello for Acquisition was asked about that at the Defense Appropriations Subcommittee.

I asked him as follows. Dr. Costello said it would be perhaps better to ensure that we have adequate competition in the qualified bidders.

Senator JOHNSTON. All right, and that is proceeding now with proper competition?

Dr. COSTELLO. To my knowledge, it is, yes.

Senator JOHNSTON. In other words, there is no need to change the law now with respect to that DDG-51?

Dr. COSTELLO. I would say I do not see any need to change the law. No, sir.

The Under Secretary for acquisition for the Navy says there is no need to change the law, that the competition is going adequately.

Assistant Secretary Everett Pyatt for Shipbuilding, I have talked to him informally. I do not have him on the record. But he has said the present law is going fine. The Navy is seeking to gather up competitive bids for the three DDG-51's now provided in the RFP.

Mr. President, if the competition is going along fine under the present law, what are we worried about? Why are we worried about the phrase "or other requirements of the Navy?" We are worried about this for one reason: If we spend $1.5 million and several months submitting a bid and turn out to be the low bidder, we do not know who the new administration is going to be. It may be a Bush administration, it may be a Dukakis administration, or it may even be a Jesse Jackson administration. But whoever is in there as the next President, we do not know who the Secretary of the Navy will be, who the Under Secretary for Acquisition will be, or who the Assistant Secretary will be, and what idea they have about "other requirements."

They may well provide or decide that "other requirements" means geographic, or it may mean anything in the world. Consequently, we may have spent, in an area that has 12 percent unemployment—that is, the State of Louisiana may have spent—$1.5 million and many months trying to acquire something for which they had no chance to begin with.

Mr. President, our position is very clear. First, it is in the national interest to have free and open competition. It will get you the lowest price among qualified bidders.

Understand, Mr. President, that under the present rules—in other words, you have to be qualified to submit a bid—48 code Federal regulations, part I, defines the phrase "responsible contractor." It means having the necessary technical skills, the necessary production, construction, and

technical equipment and facilities to perform the contract.

So, even without this language, bidding is limited, as the Navy wishes to qualify people, to qualified contractors, then, who have the technical ability to bid the contract. We are willing to accept that test, and that ought to be a proper test. But if we are a qualified bidder and we submit the lowest price, we submit that we or Bath or any other contractor ought to have the right to get that bid. That is what the law presently says. There is no reason at all to change the present law.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be deducted from each side equally.

Mr. COHEN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COHEN. Mr. President, I should like to respond briefly to my friend from Louisiana when he asks how this provision got in the law, in the Armed Services Committee authorization bill. We put it in there to try to accommodate the Senator from Louisiana.

In an unprecedented opportunity, he was allowed to come, at the graciousness of Senator NUNN, the chairman of the committee, to make a presentation during the course of our markup. I do not recall, in the history of my service on the committee, when that was done before. We did it to accommodate the Senator's request. I have no objection to that, but I do not recall it ever taking place before, while I served on the committee.

Mr. JOHNSTON. Mr. President, if the Senator will yield, that is part of our written procedure between our two committees.

Mr. COHEN. But it was the first time——

Mr. JOHNSTON. The first time I have come. The first time I have needed to come.

Mr. COHEN. The first time anyone from the Appropriations Committee testified before the Armed Services Committee. It was done in order to reconcile the differences that sometimes occur between the authorization committee and the Appropriations Committee.

Let me talk for a moment about free and open competition. I helped to coauthor the Competition and Contracting Act, so I think I can speak with some familiarity as to the terms of that act.

What occurred is that last year, in the dark of the night, during the continuing resolution process, the Senator from Louisiana and others slipped in a little provision that changed the existing law.

Avondale, the Senator's shipyard in Louisiana, had an opportunity to bid for the lead yard. They competed and lost. They had an opportunity to bid a second time and they lost.

Now, after the Navy, following through its established procedure of having a lead yard and a follow-on yard in almost every major system we have—let me read them.

We have the same procedure of leader-follower procurement strategies for the FFG-7, the AEGIS cruiser system. We have saved billions of dollars by having two competitive yards compete for the AEGIS cruiser system—over $3 billion. The system and competition contracting is working on that.

We have the SSN-688, SSN-21, MCM.

In torpedoes, we have the MK-46, MK-48, MK-50.

With missiles, we have the same system: Sparrow, Sidewinder, Phoenix, AMRAAM.

With aircraft, we have the V-22, the ATA.

We have had a leader-follower procurement strategy system for 40 years.

Now the Senator from Louisiana wants to take a third shot at the competition—after the Navy and after Bath Ironworks spent millions of dollars to build up their forces to do the work necessary to complete this complex Aegis destroyer system. Now he wants another shot at that ship. What he is doing is upsetting the delicate balance the Navy has tried to construct in having a competitive system and at the same time maintaining a stable industrial base.

I should like to address the notion that what the Navy has been doing is anticompetitive.

Under the Competition in Contracting Act, the Navy could certify that only one yard is going to be used. Under the provisions of the Competition in Contracting Act, section 3 of one of those exceptions to competition that I helped to write, with Senator LEVIN, says: "It is necessary to award the contract to a particular source in order to maintain an essential industrial capability in the United States or to achieve national industrial mobilization."

The exemption was: "The head of the agency determines that it is in the public interest to waive the requirements for competition and notifies the Congress of this determination 30 days before the award of the contract."

The Navy, under the Competition in Contracting Act, could simply waive the provisions of the Competition in Contracting Act and certify that it is in the public interest for one year, not two. The Navy has said, "We need two yards in a declining defense budget, with a shrinking shipbuilding budget, and to maintain them on a competitive basis."

Those two yards have been picked, and the Senator from Louisiana wants to undercut that and say there is no competition in contracting.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. COHEN. When I finish.

So a vague provision of "other requirements" that the Senator from Louisiana is citing is certainly consistent within the public interest. The Secretary of the Navy can certify one yard if it is in the public interest.

What we said in the Senate Armed Services Committee to accommodate the Senator from Louisiana was to say that the Navy cannot confine it to these two yards unless he certifies it is in the national interest or other requirement that it meets cost procurement needs, that it meets industrial mobilization needs, or whatever the factor may be, or other requirement.

That is entirely consistent within the public interest, that provision, that is contained in the Competition in Contracting Act.

The Senator from Louisiana has made representations the Navy does not favor the provision that was authored during the course of the Senate Armed Services Committee markup. That is completely wrong.

What they do not favor is the provision the Senator slipped into the CR last year. That is the provision they do not favor.

I have a letter here not from any Under Secretary. I have a letter from the Secretary of the Navy, and it is addressed to Senator WARNER, and also one addressed to Representative BENNETT on the House Armed Services Committee.

DEAR SENATOR WARNER: This responds to your request regarding the Department of the Navy's position on the FY 89 DDG-51 competition. The original acquisition strategy calling for competition between the lead and follow yards remains the most prudent course. In executing this plan we have already had separate competitions for the lead yard and the follow yard.

It goes on. I will conclude the final paragraph.

The Navy's experience on other dual source shipbuilding programs, for example, the SSN-688 and CG-47 programs, shows we are able to have meaningful competitions between the lead and follow builders. These have yielded the taxpayers significant savings over the past seven years.

That is the Secretary of the Navy's letter to Senator WARNER.

I tell you I talked to Ev Pyatt and he represents to me he favors maintaining the competition between the two yards in which we only have three ships authorized now.

Eventually if we ever come back to the point where we can expand our defense budgets, increase the shipbuilding portions of those budgets, when we can have six, or seven, or eight surface ships being built every year, then three yards makes sense. But to have three yards now in competition now

for competition for three ships will succeed in undermining the industrial base capacity of this country and destroy the principles of competition in contracting.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. COHEN. I yield to my friend from Alaska.

Mr. STEVENS. What is wrong with the provisions we worked out in the appropriations bill in view of the statement the Senator just made? It says it can only be two yards, unless the Secretary certifies that the 5-year plan has room for more than two yards. So you can look 5 years ahead.

We thought we settled this last year. Why should there be anything in this bill at all? Why can we not rely on existing law?

Mr. COHEN. Why was there anything in the appropriations bill last year without a hearing having been held? It was brought up without debate and this provision was slipped in after the Navy committed on two separate occasions. I would be happy to tell my friend from Alaska.

Mr. STEVENS. Let me answer that.

Mr. COHEN. I retain my time. I have my time back.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. STEVENS. Would the Senator from Maine allow me to tell how it came up last year?

Mr. COHEN. I would like to finish my statement and then the Senator will have his own time.

Mr. STEVENS. The Senator will not seek his own time. The Senator will not seek it from the Senator from Maine unless he is fair in debate with another Senator.

I want to say, Mr. President, the statement the Senator made was wrong.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maine is recognized.

Mr. COHEN. The Navy was proceeding with the competition between all yards that wanted to compete. Every yard that wanted to compete for the destroyer had that opportunity, every yard: Ingalls Todd, Avondale, Bath Ironworks. They competed for the design of that ship. They competed for the lead ship and they competed for the follow-on. And the Navy decided they would pick the two yards that were going to compete.

Now if the Senator from Alaska wants to amend the law to say that the Navy shall comply with the Competition in Contracting Act I have no problem with that. But I do have a problem with the third yard coming in at this point when we have three ships authorized in this budget and saying we simply want to come in the competition at this point.

I think it flies in the face of what we tried to achieve in the Competition in Contracting Act.

I hope our colleagues will resist the temptation to undermine the shipbuilding capacity of this country.

Mr. President, I reserve the remainder of my time.

Mr. BREAUX. Mr. President, will the Senator from Louisiana yield to me?

Mr. JOHNSTON. Mr. President, I yield to my colleague such time as he may require.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank my senior colleague and congratulate him on offering this amendment which I strongly support and recommend to other Members of this body.

Mr. President, this amendment is about competition. It is about whether we are going to have it or whether we are not going to have it. It is just that simple.

How many of us have heard time after time from our constituents about the cost overruns in the military, about toilet seats that cost hundreds of dollars, about hammers that we buy in the Navy that cost hundreds of dollars. People are outraged about it, and as they should be.

But, Mr. President, in comparison to this particular program the toilet seat overruns and the $100 hammers are indeed peanuts. We are talking about 26 Navy destroyer vessels that are hopefully going to be built in the future and we are going to have all of the qualified competent American shipyards in this country be able to bid for those destroyers or not. It is just that simple.

The Navy would like to say we are not going to let but two shipyards build because it is easier for us to manage two shipyards.

Mr. President, this country is built on competition, whether it is the World Series or the Superbowl or the Kentucky Derby. We have determined the best through competition, and in the business world we determine who can do the best job not by bureaucrats, not by legislation, because we cannot legislate excellence. We determine who can do the best job by competition, by throwing out a proposal and saying whoever can build it the best and for the cheapest price is going to get the job.

That is what we are trying to put back into the Navy destroyer program.

The amendment of Senator JOHNSTON, in which I join him, simply says that we are going to ask for bids and let the Navy decide based on who can come up with the best price, who can come up with the best schedule, and who can come up with the best performance.

I ask my fellow colleagues what is wrong with that? What is wrong with saying that the Navy can limit competition only if they can show they are going to have a better cost, better price, and better performance, or a better schedule as a result of limiting competition?

If they cannot show that, then qualified American shipyards should be able to bid. That is the only thing this amendment is about. It is to say that the qualified shipyards, whether they are in California or whether they are in Washington State or whether they are in Maine or in Virginia, or whether they are in any other State that has a shipyard, that they ought to be able to participate, they ought to be able to come in and say, "We think we can do it better than anybody else."

The Navy says we do not want that kind of competition, it is too different, we want to say there are only two shipyards that can possibly bid.

The amendment of Senator JOHNSTON says that is wrong, that we ought to get back to allowing for open competition and let the free market determine which shipyard can build and if a Louisiana shipyard cannot compete on the price, on performance, or on schedule, they should not be considered for the job. But do not slam the door in the face of the shipyards of America before the competition even begins. Do not tell them that they cannot even participate because some bureaucrat has determined that they would like it a different way.

Mr. President, the shipyards in America are folding right and left. The statistics are frightening. We have lost 76 shipbuilding and repair firms since 1982. We have lost over 52,000 American workers in American shipyards because people are building ships in foreign yards.

But we have said do not worry, shipyards, we are going to preserve the Navy work for you to make sure we keep an industrial base in the American shipyard industry.

What does the Navy do? They say, well, we are only going to let two shipyards bid.

The argument on behalf of the Navy is that we have already had competition, and indeed they did run a competitive competition for the first three ships. And let me tell you what happened. The first ship went to Bath. They had the best proposal. The second ship went to Ingalls. And then the Navy writes in the contract if Baths does not get the second one, do not worry, Bath, we are going to give you the third one; do not worry, Bath, we are going to give it to you for whatever price you submit.

Let me show you the numbers as to what happened. For the third ship Bath submitted an initial bid of $282 million. On the second ship, Ingalls submitted a bid of about $162 million. Avondale from Louisiana had submit-

ted a second bid of about $180 million. But guess who got it? The high bidder.

Eventually the Navy had to bring them down to a price of about $189.9 million which was still almost $28 million more than the other bids.

Is that the kind of competition we can stand up and be proud of? Is that the kind of competition that produces the best cost and the best price—$28 million more than the low bid?

The only thing that the Johnston amendment is saying is let competition decide who is going to get the work. And what is wrong with competition? It is as American as apple pie, and that is one way we can prevent the $100 hammers and $100 toilet seats, by saying anybody who can do the work has as a right to try and get the job and let the one who can do it the best with the best price for the best performance get the work.

That is what this authorization bill is all about. That is what Senator JOHNSTON'S amendment does, and I cannot understand how anybody can say we are so much against competition that we are going to have to reserve work for a company without freely competing and let the low company get the job.

So I join with the senior Senator from Louisiana and congratulate him for his perseverance in this area.

Every chance he has had he brought this issue up as it should be, whether on a continuing resolution or on the authorization bill.

Let us bring competition back to the Navy and his amendment does that.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself just 1 minute to make one point which is crucial to this.

It has been said that there has been a competition or that there have been two competitions. That is correct, Mr. President, there have been two competitions. But under the Competition in Contracting Act, the only competition that can be had under the law is the competition for the ships under consideration for that particular procurement.

The two competitions that were held, the first one was in 1985 for one ship. The second one for fiscal year 1987 was for two ships. There has not been a competition for the whole program. There cannot be a competition for ships as yet unsubmitted for bid because the competition in contracting law, Mr. President, provides that there shall be an RFP with free and open competition for each new procurement.

The Navy could have submitted the whole program of 30 destroyers all in one program and had one bid for it. They did not do so. They submitted first one ship and then a separate procurement in fiscal year 1987 for two ships.

So, Mr. President, there has not been a competition to limit this to 2 shipyards for 30 ships. There has been a competition to limit it to two shipyards only with respect to the two ships in fiscal year 1987.

Moreover, Mr. President, it would be a grave mistake to change the law to say that after bids are in you can come in and restrict competition. I mean, you can see, Mr. President, just by the numbers we are lookig at here. Avondale was almost $100 million, well, $89 million less than Bath on the second ship. Can you imagine, if you have 30 ships, how much this might cost the U.S. Government?

Bath, Mr. President, is a shipyard that is thought to be in some trouble. Just in the Defense News of Monday, April 18, 1988, it stated:

> The Navy had hoped to build about five ships per year, but cost and design problems at Bath have led to a nearly 10-month delay in the construction schedule and the lead ship is not expected to be delivered to the Navy until mid-1990.

My colleagues will recall that Bath had a leveraged buy-out and may be in some difficulty. We also know that these are the OSHA violations at Bath for which they had to pay over $1 million in fines.

Mr. President, I hope Bath has its problems straightened out, and it may well have those problems straightened out. But the fact of the matter is to come in and try to get a shipyard which might be in trouble, limiting competition, as we are, to two shipyards, one of which might be in trouble, could cost this Federal Government billions and billions of dollars.

If they could compete, let them compete openly and fairly and not, Mr. President, to come in with the competition which has some vague language like "or other requirements."

And I will repeat during this argument today that I hope somebody will tell us what this means: "or other requirements." Because under this amendment, as put forth in the Senate Armed Services Committee bill, you get a chance to bid all right, but the Secretary of the Navy can come in with "other requirements" as determined by the Secretary of the Navy after the bidding is over with. So it is the classic catch-22.

As I said earlier, it is like my daughter said, when she wanted to borrow the credit card: "I want to buy a sweater and stuff" and the and "stuff" turned out to cost more than the sweater. The other requirements here are likely to turn out to mean, "Yeah, you had a right to bid but you really cannot bid unless you are from the State of Maine." That is what is involved here.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. JOHNSTON. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, I think the issue we are talking about here is a thoroughly narrow one. It really boils down, as I see it, to these three words: "or other requirements."

In committee, we looked at the concern that if we open competition, did that commit the Government to any binding contracts, or tooling and other expenditures, to the shipyards. Knowing, that if we had to build up tools, that unless the savings from the additional yard coming on line were greater than the cost of tooling or supervising it, that we could lose money even though it might look like we were gaining money. So we have a provision in here that protects us against that.

It seems to me, therefore, that we have already dealt with the really legitimate concern about the third shipyard. I think, in these questions, where we have doubt about how we ought to operate, that our natural inclination ought to always be toward competition. I think with the protection we have that we are not going to be entering into a contract that is going to cost us more than we gain. I think we ought to open it up for more competition. This is why I support the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Will the Senator yield me 6 minutes.

Mr. COHEN. I yield 6 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I ask unanimous consent that Mr. Creswell, my administrative assistant, may sit here with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, the amendment offered by the Senator from Louisiana is just the latest chapter in a series of efforts made by one shipyard to use the Congress to micromanage the procurement action by the Navy in its contracts for the DDG-51 Destroyer Program.

Now, I make no reference to individual Members of this body, of course, who are acting in good faith.

Competition is really not the issue, Mr. President. I am not an expert in this field, but I have been here these years and have exercised an active interest in it to more than just a minor degree during each of those years. There are a lot of companies that are the very finest and best shipbuilders in the world. I am very proud of what share of that is in my State, and other States the same way. I am proud of the attitude on the part of this body

and the House of Representatives to see that right is done, that competition is allowed, and that all have an opportunity.

So let us not fool each other and criticize each other. Competition is not really the issue here, Mr. President. There has already been competition, more than once. In fact, the Navy on two separate occasions conducted a competition and it was generally understood by all shipyards participating that the results of that competition would be used by the Navy in awarding future contracts for the construction of the destroyers. It was further understood that once two shipyards were selected for participation in the DDG-51 Program, future competition on the construction of this class of destroyers would be between those two yards.

There are just not enough of these destroyers in the Navy program to justify the participation of more than two shipyards.

As a result of the competition previously held in 1985 and 1987, two shipyards were selected by the Navy to participate in the Destroyer Construction Program—Bath in the State of Maine and Litton in Mississippi.

The shipyard in Louisiana participated in the bidding process but was not selected.

In spite of this prior competition, last year during consideration of the Defense appropriations bill in the House of Representatives, an amendment was adopted which had been offered by Congressman LIVINGSTON of Louisiana, requiring additional competition for the 1989 Destroyer Construction Program with even an additional mandate that a third shipyard be given a contract in the program. This was done in spite of the fact that all interested shipyards had the opportunity to bid in the two competitions already held.

There was no similar provision in the Senate appropriations bill last year, and in conference with the House, a provision was agreed upon which did require additional competition for the 1989 Destroyer Construction Program, but did not require that an award be made to a third yard.

The provision inserted in the Defense appropriations bill which became a part of the continuing resolution last December was really not a proper subject for the Appropriations Committee, but its inclusion in the bill resulted because of the action of the House of Representatives in approving that particular provision. As Senators will recall, we worked many days and often late into the night reaching final agreement on the Defense appropriations bill and ultimately the continuing resolution. While I did not feel that the matter offered by the Congressman from Louisiana had any place in the appropriations bill, it was already there when the bill reached the Senate and had to be dealt with in the House-Senate conference. A compromise which was reached was agreed to which now needs to be corrected.

Therefore, we are faced again with this issue. The Navy has steadfastly taken the position that the competition has already been held, and it should be permitted to utilize the results of the competition in awarding the contracts for the entire Construction Program for destroyers of this class, as was anticipated by the Navy and all the interested shipyards when the competition was held. Of course, the two successful bidders already selected will compete for the contracts for the destroyers in each year's Construction Program. I certainly agree with the soundness of this position.

May I have the remaining time, please?

The PRESIDING OFFICER. The Senator from Mississippi's time has expired.

Mr. STENNIS. Will the Senator allow me 2 more minutes?

Mr. COHEN. Mr. President, I yield an additional 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for an additional 2 minutes.

Mr. STENNIS. The House, in the military authorization bill for fiscal year 1989, repealed the provision requiring additional competition for these ships among all yards.

Let me say this again. I have not rendered any big service here but I have been through hundreds and hundreds of these committee meetings over the years. There is a sense of fairness. There is a sense of competition. There is a sense of a pattern of operations that is fair and splendid, and it has reared a fine group of high production workers that almost take the prize throughout the Nation in many ways.

In the military authorization bill for fiscal year 1989, the Senate Armed Services Committee adopted a provision recognizing the importance of continued competition, but adopted compromise language giving the Secretary of the Navy some discretion in considering overall costs, schedule, performance, and other requirements of the Navy in deciding whether there would be additional competition with a report to Congress and review by the General Accounting Office.

Mr. President, I am saying I have been impressed with the consideration of these matters, emphasizing, again, the fairness of it and chance to have competition, the chance to get a job and get the work done; the chance to get a splendid ship built. Let us not overlook our own national interest, our own national viewpoint of need.

We must, we just absolutely must, proceed here with a competent, able group of men and women in those fields. That must continue.

In my time in the Senate, I have conducted many hearings, and been involved in a great number of procurement programs by the Department of Defense. Certainly competition is a healthy thing, and every qualified person or company should have the opportunity to participate in providing military equipment to our Defense Department. There comes a time, however, when we must leave the management of a program involving millions and millions of dollars to competent, qualified officials of the Department of Defense.

I submit this is such a case, and we should defeat the amendment offered by the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be equally charged.

Mr. COHEN. I yield 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, when a fellow says to you it is not the money, it is the principle, you can be pretty sure it is the money. And that is what is involved here.

This is whether or not there is going to be ordered competition in the construction of Navy ships or not. This amendment is offered as the competition amendment. It is more accurately the sore loser amendment.

The Navy conducted an open, competitive process on the destroyer program as the distinguished Senator from Mississippi, Senator STENNIS, has just described. It is the same competitive process it followed in the frigate program; the same competitive process it followed in the cruiser program; the same competitive process it followed in the 688 class submarine program.

Not once but twice there was a competitive process in the destroyer program and, as a result of that process one shipyard lost; the shipyard in Louisiana. Having lost it in an open, competitive process, they now come to Congress to change the rules. Not during the game, but after the game is over; to win, through the political process, what they cannot win through the competitive process.

If this process is so bad, why did the Senator from Louisiana not object to its use in the frigate program? Why did he not object to its use in the cruiser program? Why did he not object to its use in the 688 class program?

There was no such objection because there is nothing wrong with the process. It is a good one.

Mr. JOHNSTON. Will the Senator yield?

Mr. MITCHELL. The Senator was able to speak uninterrupted and since there is a time limit, may I have the same courtesy, and then the Senator can use whatever time appropriate later.

Mr. JOHNSTON. Certainly.

Mr. MITCHELL. It is a good process. It has served our Nation and our national security well. It has saved billions of dollars for our taxpayers.

Now, for the first time, the Navy's competitive process is objected to and if this Navy process is so bad, why was there not objection in 1985 when it began on this destroyer program? Why wait until now, 3 years later, after the process is over, to object?

Well, the answer is obvious. There was no earlier objection, there were no earlier amendments, until the yard from Louisiana lost. Then and only then a process which has been used successfully on three other major shipbuilding programs, a process which proceeded without protests during this destroyer program, then and only then was that process deemed to be unacceptable or anticompetitive.

So, what we have here is a noncompetition amendment being called a competition amendment.

What we have here is an effort by a shipyard that lost under the rules as it understood them, now coming here and saying—not during the game, but after the game is over, after the teams have left the field, after the crowd has left the stands—now coming back, trying to win through the political process what it cannot win in the competitive process.

I think every Senator should consider seriously the effect of adopting this amendment, of saying that we do not trust the Navy to execute these programs. We are going to throw onto the floor of the Senate and the House contractual decisions. We are going to override the Navy wherever our yard loses in a competitive process.

I think that is a very serious thing, which every Senator should ponder, because it could come back to haunt everybody who is involved.

Mr. President, the Senator from Louisiana said that the yard in Maine has had OSHA violations, for which they have paid over $1 million in fines. I am sure the Senator would appreciate my correction. That is not correct. No fines have been paid. The matter is a subject of negotiation. OSHA has made some allegations. The Navy is implicated in the matter.

Mr. JOHNSTON. Will the Senator permit me to reply on that on my time?

Mr. MITCHELL. Go ahead.

Mr. JOHNSTON. My source is the U.S. Department of Labor News. This is dated November 4, 1987.

The U.S. Labor Department today proposed nearly $4.2 million in penalties against Bath Ironworks for numerous alleged job safety and health violations at the company's Bath, Maine, shipyard.

I suppose that $4.2 million is still in negotiations. So I think the Senator may be correct that that has not actually been paid.

Mr. MITCHELL. No fine has been assessed. The company has vigorously contested them. The Navy itself is implicated.

As the Senator well knows from his own experience, a proposed fine by OSHA is not evidence that the violations occurred or that the fine is the appropriate level to be assessed.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. MITCHELL. If I may simply conclude by saying there is one other factor—may I have 2 more minutes?

Mr. COHEN. I yield the Senator 2 additional minutes.

Mr. MITCHELL. One of the other things that should be considered here is really the lives and deaths of American servicemen.

I ask unanimous consent there be placed in the RECORD a letter from Congressman MURTHA, who recently visited the Persian Gulf.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 28, 1988.

Mr. WILLIAM HAGGETT,
Chairman and Chief Executive Officer, Bath Iron Works Corporation, Bath, ME.

DEAR MR. HAGGETT: I returned last Sunday from an inspection trip to Dubai where I went aboard the USS Samuel B. Roberts which was recently seriously damaged by a mine in the Persian Gulf.

The Captain and the crew praised the quality of the construction of the ship. I especially recall the Captain pointing out to me that despite the tremendous force of the explosion, the welds in close proximity to the explosion held fast.

The two factors that saved the ship were the heroic action of the crew and the professionalism of your many dedicated employees who constructed this fine ship.

With best wishes,

Sincerely,

JOHN P. MURTHA,
Member of Congress.

Mr. MITCHELL. That letter referred to the comments made by the captain of that vessel, a Bath-built ship, which praised the quality of construction of that ship which saved the ship and its dedicated employees and the dedicated servicemen.

What we have here is the most experienced, most honored shipyard in this Nation. I think it is simply incorrect for any aspersion to be left as a result of this debate about the quality, the ability of the people of that yard to construct ships. They have been doing it for many decades and doing it well, as the Navy can indicate.

I think that is really what this gets down to. Do we trust the U.S. Navy to conduct a shipbuilding program in accordance with law? Or are we going to say that when a decision is made by the Navy that some Senator does not like because his yard does not win we are going to overturn it through the political process? That is really the issue here. Competition has not been the issue.

There has been competition—a fair, open competition—which everybody understood before it occurred. And if that process was unfair or wrong, protests should have been made at the outset, not after the process is over, not after one yard lost, not after the decision has been made.

Mr. President, I urge the Members of the Senate to reject this amendment and to observe it for what it is. It is not an effort to promote competition.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. On this question of the prior competition, will the Senator not agree with me that the RFP's, which were submitted, were not for a 30-ship program, but were for a 2-ship program in the case of the RFP submitted for fiscal year 1987 and for a 1-ship program in the case of the RFP submitted in 1985. Am I correct on that?

Mr. MITCHELL. It is very clear that the program was intended to establish a lead and a follow-on yard. And that while the Senator is correct that it was limited as he stated, there is no doubt, considering the manner in which the shipbuilding programs have been conducted, which everybody understood, that once those yards were established, we are going to proceed to construct the remainder of the ships in those two yards, depending upon the number of ships that might in the future be available.

Mr. JOHNSTON. Point No. 2: The Senator said it is an established procedure to have a lead and follow-on yard. But does the Senator know that at least, with other kinds of programs where you have a lead and follow-on yard, for example, the TAO Program, which is an oiler program which Avondale—I think they are the follow-on yard, they are the follow-on yard, but it does not limit competition with respect to that. Will the Senator agree with me that a lead and follow-on yard does not mean you limit competition to those two shipyards?

Mr. MITCHELL. TAO oilers can be built in every American shipyard limited only by space. The surface combatants, like the destroyer program, are highly specialized, only built in three yards. Indeed, it is my understanding

that the Avondale yard has never built a missile-firing surface combatant of the type being described here.

Mr. JOHNSTON. But the Senator does agree that the TAO is not limited?

Mr. MITCHELL. I agree it is not limited because there is no need to limit it. It can be built in every yard in the country limited only by space.

Mr. JOHNSTON. Exactly.

Mr. MITCHELL. And it is unlike this program. There is no analogy whatsoever.

Mr. JOHNSTON. The final question: Can the Senator enlighten us on what this means: "Our other requirements"?

Mr. MITCHELL. That is not my amendment.

Mr. JOHNSTON. Mr. Presisent, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I am glad my distinguished friend from Maine has narrowed this issue. As he pointed out, Mr. President, there was a competition, but the competition was limited to two ships in 1987. There is this leap, Mr. President, You have one competition in 1985 for one ship. You have another competition in 1987 for two ships, and then after that comes in, then after that competition is over, on August 31 of 1987, my shipyard received a letter and says, "Aha, we were not talking about three ships, we were talking about the whole program."

Now, how are we supposed to know that it was the whole program? It was not in the request for proposals. It would be illegal under the competition in contracting act to do it that way. It is a catch-22. After the bids are in, then they say we are talking about the whole program.

So, Mr. President, it is not allowed under the act. There is no need at all to change the present law. The present law, which was incorporated in the Approprations Act last year, was worked out with Ingalls Shipyard, which agreed that that was OK with the Mississippi delegation. We all agreed. We thought we had this thing settled. Free and open competition was going to be the rule of the game for the next year. There is no case at all made, Mr. President, that that should be changed.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. Will the Senator from Louisiana yield me 2 minutes?

The PRESIDING OFFICER. The junior Senator from Louisiana is recognized for 2 minutes.

Mr. BREAUX. I just wanted to follow up on what the Senator from Louisiana pointed out. That is, why was nobody objecting earlier? The simple reason is earlier there was open competition. In 1985 when they had competition for one ship, Avondale lost. Avondale did not try and change that decison because they had a right to compete.

Only in 1987, after the third ship was granted automatically to one shipyard and the Navy came in and said that all future ships that we are going to build are going to be closed competition, that we decided it was improper and inappropriate to follow that type of a program.

So when the competition was open, nobody was complaining, despite the fact our shipyard in Louisisana lost. But when the Navy came in in 1987 and said that is it, no more competition for the rest of the program, those of us who looked at what was happening to the bids said that is not right.

The open competition the Navy said they had resulted in the third ship costing almost $28 million more than the low bids on the first and second ship. Is that the kind of program we want to run in this country when budget numbers are tight, when we have a limited amount of dollars left in the defense appropriations?

We should be getting the biggest bang for the buck. The only way to ensure that is to provide for open competition and let the shipyard who does the best job at the best price, the best delivery schedule get the contracts. Tht is all the Johnston amendment does.

It says, let us have a little competition around for a change; let us stop the $10 hammers and $200 toilet seats. Let the best competitor get the business. When we lose fairly, no problem. Do not say we cannot even come to the field and compete. Do not say only a selected few can participate in the game.

The Johnston amendment says competition is good for the Navy, as it is for every other segment of the United States.

So I think a vote for the Johnston amendment is a vote to save this Defense Department some money, to ensure that they get a bigger bang for the buck. If you want the ships to cost more, vote against Johnston. If you want the ships to cost less and get more for our dollar, support the Johnston amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I yield myself such time that I may consume.

The PRESIDING OFFICER. The senior Senator from Maine.

Mr. COHEN. Mr. President, there has been a good deal of confusion injected into this debate. I think my colleague from Maine, Senator MITCHELL, phrased it quite appropriately. He said this is not the competition in contracting amendment or a vote for good competition in our shipbuilding program. It is a sore loser amendment.

As I listen to the debate, I am tempted, and I may do it, as a matter of fact, Mr. President, I may at the conclusion of this debate give what the authors and sponsors of this amendment really want. If they want a chance to compete under the law, then I would offer to strike all the provisions that we put in to accommodate them, the provisions that the Navy has to certify that it will result in lower total costs to the United States, that it is necessary to meet the cost schedule, performance, or other requirements, that there be a GAO certification, Navy certification, I will offer to strike all of that and simply say that the Secretary of the Navy shall provide for the construction of the shipbuilding portion of the DDG-51 destroyer program in fiscal year 1989 through full and open competition as provided in chapter 137 of title 10, United States Code, section 18 of the Office of Federal Procurement Policy Act. That is the Competition in Contracting Act.

Now, if anyone is in favor of competition, we can go on record and just strike everything that we tried to do to accommodate the Senator from Louisiana and simply allow the Navy to compete under the Competition in Contracting Act, and I may very well offer my amendment at the end of the debate.

I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The junior Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Maine for yielding to me. When the distinguished Senator from Alaska was on the floor, he observed that language was included in the continuing resolution for appropriations last year dealing with this subject.

I will take a few minutes to try to explain to the Senate the legislative history of this controversy to try to put in perspective what is going on right now on the floor of the Senate.

Since Senators have already discussed the contents of the request for proposal which the Navy issued when this program was begun and when bids were first made by competing shipyards in 1985, I will not describe details of the program bidding. I think what happened when the bidding was over, however, should be of particular interest to the Senate.

Avondale in Louisiana, Ingalls Shipbuilding in Mississippi, Bath Ironworks in Maine, and others submitted bids to construct the first *Arleigh Burke* guided missile destroyer, DDG-51. Everyone in the industry knew this was one of the largest programs ever bidded upon in the history of the Navy and in the history of shipbuilding in the United States. Over 20 ships were comtemplated for this program, and winning that competition was considered extremely important. There were two winners, and there were some

losers. The two winners were Bath Ironworks and Ingalls Shipbuilding.

After the competition was over, there was an effort in the legislative process to reopen the bidding by means of an amendment to the appropriations bill in the House of Representatives, offered by a Congressman from Louisiana, which directed the Navy to reopen the bidding and to select a third shipyard to participate in this program.

That was the legislative effect of the adoption of that amendment in the House of Representatives in the Appropriations Committee, and that provision survived the House. In the Senate no similar provision was included, and so in conference last year on the continuing resolution, we had to deal with this provision mandating by law the selection of a third shipyard for this program.

In the negotiations, which involved this Senator, Senator STEVENS, Senator STENNIS, Senator JOHNSTON, and others, along with conferees on the part of the House, we wrestled long into the night on whether we were going to permit the Congress by law to direct the Navy to select a third yard.

A compromise was reached, and a sentence was included in the provision attached to the House language stating that, although the Navy really did not have to select a third yard, it did have to open up the bidding in 1989.

The practical effect of that compromise continues today. Senators and lawyers can disagree on the meaning of the words and other considerations, but as I understand it the Navy feels constrained by that language, and Senators think that the Competition in Contracting Act has been amended in an appropriations bill at the instance of the House but modified in conference with the participation of some of the Senators here.

Now, what has happened this year? In the authorization process, the bill from the House Armed Services Committee included a committee amendment that repealed the conference language from the appropriations bill last year and in effect rendered operative the Competition in Contracting Act of 1984 without any amendment from the appropriations process. It just put the law where it was after the adoption of the 1984 Competition in Contracting Act.

When the bill got to the floor, a Congressman from Louisiana was going to offer an amendment to strike the House language. The House Rules Committee ruled that such an amendment would be out of order, however, and it was not offered.

We come now to the Senate. Although the bill from the Senate Armed Services Committee retained language similar to last year's appropriations compromise, the distinguished senior Senator from Louisiana proposes an amendment to modify that provision again. I think Senators have a right to know what the practical effect of that modification would be. My interpretation, and it may differ from others, is that it would strengthen the mandate of last year's appropriations bill and could be interpreted as requiring by law the selection of a third yard by the Navy. That is the issue. Are we going to permit the Navy to continue to enjoy some flexibility under the law or are we going to permit the Congress, each time there is a competition and there are dissatisfied bidders, to direct the Navy or the Air Force or the Army in the details of compliance with the Competition in Contracting Act?

I think this is dangerous territory, Mr. President, for us to try to choose sides between well-liked, well-respected Senators, who have the best of motivations, to try to manage the competition program of the Armed Services on the floor of the Senate, as we are being called upon to do today.

We have a law on the subject, the Competition in Contracting Act of 1984. Let us stick with that law. It was carefully drafted. Let us not try to inject new provisions and wrinkles that might have the effect of preferring one shipyard over another or second-guessing the decisions made by the managers of these programs. Let us use our regular oversight authority. If we think there has been a violation of the 1984 law, let us have a hearing. Let the Armed Services Committee bring in the Navy and ask them about the way this program has been submitted to the industry.

If there have been violations, let us discuss them. If there is an aggrieved yard, I am sure the courts will take into account any proof that the Navy has violated the law or has not dealt fairly with a bidder. We see that happen from time to time.

This is not the place, Mr. President, for us to try to resolve this dispute. It could probably be handled much better for all concerned in another forum. I hope the arguments made by the distinguished Senators from Maine, Mr. COHEN and Mr. MITCHELL, will be reviewed carefully by the Senate. If the Senator from Maine offers an amendment, I hope we will vote for his amendment. If he does not, we can vote to reject the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 8 minutes 18 seconds. The Senator from Maine controls 7 minutes and 40 seconds.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I ask unamimous consent to proceed for 30 seconds without it being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. NUNN. When we get through voting on this amendment we have four Helms amendments. I assume and understand Senator HELMS has been on the floor and he will probably be ready to bring those up which appears to me to be somewhere in the neighborhood of 12:40 or 12:45. Those amendments are going to take a good bit of debate and time.

We have an order for 3 o'clock I believe on the D'Amato amendment relating to drug offenses and capital punishment. That will take about an hour as previously agreed on, at least to get to a tabling motion.

Then we have about seven or eight other amendments that we understand will be called up. So we need people to understand that they should be alert at least after 4 o'clock and about 7 if we are going to get through here at a reasonable hour this evenying, to get their amendments to the floor, and to make sure we have no lapse time here.

I do assume that we will go with the Helms amendments right after this one; also, the Domenici verification amendment, 28 minutes equally divided. That one may cause a rollcall vote. So I would ask if Senator HELMS and his staff could get in touch with us and let us know their intention, and also Senator DOMENICI on his as to when he would prefer to bring that up.

I thank the Chair.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes.

Mr. President, we have had so much talk here about what sounds like something complicated which really is not. The real issue here is two things: first of all, whether this phrase "or other requirements" should be part of this amendment; second, whether or not you are going to put on other requirements whether they ought to be put on after the bids are received or before the bids are received.

Let me be more specific. The change in the law as presently contained in the Senate Armed Services Committee bill says in effect there shall be competition unless the Secretary certifies that limiting competition would result in a lower total cost to the United States or is necessary to meet the cost schedule performance or other requirements of the Navy.

Mr. President, in the Armed Services Committee meeting—and I was there—the argument was that you should not have this free and open competition because to get another shipyard in the process would cost the Navy additional money. They also said that second

shipyard might not be qualified or it might delay the program.

So this amendment takes care of that. I think it is provided for under the Federal rules anyway. In fact, I know it is. I just read that into the RECORD. This amendment clearly provides for any question of cost or qualifications or time. It clearly states that. That is not at issue here.

What is at issue is the second requirements, which says "is necessary to meet other requirements of the Navy determined by the Secretary."

Mr. President, we have gone on here for over an hour. I have asked repeatedly from the start what does this mean. It obviously has no meaning. It is obvious that this phrase in the Senate Armed Services Committee bill is meant really to exclude competition. It is meant to seek to give you competition with one hand but to take it away with the other hand.

The second part of this amendment says that these bids which should be received—actually, the RFP's are set to go out next month. The bids would be received shortly thereafter. Our amendment simply says that you do not exclude the bids until they are received. You do not come up with requirements until you know what the bids are. In other words, if you are going to say there is no way that someone could commit to a lower bid, there is no way you can make that determination until you actually receive the bids.

Mr. President, we did in fact work this matter out as the distinguished Senator from Mississippi said. He was part of the negotiation. I was. It was difficult. It was a negotiation among friends and neighbors, allies. And we worked it out. I thought it was worked out to everyone's satisfaction, including the shipyard in Mississippi, Ingalls, and including the shipyard in Louisiana. No one liked it too much. But it provided for a narrow competition for 1 year.

This amendment, while talking in terms of saving the Navy money, really cloaks through with this clever use of language "or other requirements," and just does away with that competition altogether.

It is a $20 billion program. There has been no competition for the $20 billion program prior to this—competition for the two ships in 1987, of course, and competition for the one ship in 1985, of course. Everyone concedes that. But there is no competition for the total program. There should not have been a competition for the total program because we did not know how many ships and when they were going to be asked for, and what the condition was going to be at that time.

I ask my colleagues, Mr. President. Let us have fair competition. If we have to limit the amount of ships we build, let us build them at the yards that can do the best job at the best price for the U.S. Government and for the people of this country.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Maine has 7 minutes and 40 seconds. The Senators from Louisiana has 2 minutes and 59 seconds.

Mr. STEVENS. Mr. President, I seek about 2 or 3 minutes to explain the problem of this from the point of view of the Appropriations Committee.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield the Senator 2 minutes of time from the opponents.

The PRESIDING OFFICER. The Senator from Alaska is yielded 2 minutes.

Mr. STEVENS. Mr. President, the 1988 appropriations bill contains language which was placed there in conference. That came about because the House of Representatives sent to the Senate a bill that contained a section that required competition among all domestic shipyards and specifically stated that at least one ship, under this program, for fiscal year 1989, must be competitively awarded to a third source shipyard.

I ask unanimous consent that that provision from the House-passed appropriations bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DDG-51 destroyer program, $5,500,000: *Provided*, That procurements for construction of vessels for the DDG-51 guided missile destroyer program for fiscal year 1989 and thereafter must be competed among all interest domestic shipyards, contract selections thereunder must be made to the contractor on the basis of full open competition, and at least one ship under this program for fiscal year 1989 must be competitively awarded to a third source shipyard;

Mr. STEVENS. Mr. President, the appropriations bill passed by the Senate in 1987 contained no language dealing with the issue of the DDG-51 Destroyer Program in terms of such limitation.

My problem with what is before the Senate now—and I must say to the Senator from Louisiana that I spoke to him earlier, and I thought what he was going to do was to delete the provisions in the bill which is now before the Senate. Having conferred with the Parliamentarian, I understand that it is not possible to offer an amendment to delete all reference to the DDG-51 program. I still believe that the compromise we reached in the 1988 appropriations bill is correct.

I say to my friends, without regard to where they stand, that no matter what we do on this bill, it is coming back again to us under the appropriations bill. The House put the provision in the appropriations bill that mandated a third contract to build destroyers. We will face that again in the appropriations bill. We settled it in the conference on the continuing resolution, and I ask unanimous consent to have that provision printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHIPBUILDING AND CONVERSION, NAVY

DDG-51 destroyer program, $5,500,000: *Provided*, That contracts awarded for any DDG-51 class destroyers in fiscal year 1989 shall be made on the basis of a full and open competition among all technically qualified bidders regardless of prior contractual experience for construction of DDG-51 destroyers. More than two shipyards may not be utilized for this purpose unless the Secretary of the Navy certifies that the Five Year Defense plan is sufficient to support cost effective construction at more than two shipyards;

Mr. STEVENS. It specifically says: "More than two shipyards may not be utilized for this purpose unless the Secretary of the Navy certifies that the Five-Year Defense Plan is sufficient to support cost effective construction at more than two shipyards."

I know that does amend the Contracting Act, but I still believe that is a workable and livable solution, and what is in the armed services bill is not, and what is in the House version of the bill is not.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield myself 30 seconds.

Mr. President, I tell the distinguished Senator from Alaska that I very much agree with him. I thought we should go with the compromise we struck in the appropriations bill last year. The amendment to the Senate Armed Services Committee bill is a desire to compromise and reach a middle ground, and I hoped it would be agreeable with them. Obviously, it is not.

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. JOHNSTON. We have 2 minutes remaining.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes and 26 seconds.

Who yields time?

Mr. COHEN. Mr. President, as the Senator from Louisiana has characterized it, it is a simple issue.

What has happened, however, is that it has been clouded by the arguments offered by the Senators from Louisiana on the words "other requirements."

As I tried to point out earlier, under the Competition in Contracting Act, which Senator LEVIN and I helped to write, to become part of the law, the Secretary of the Navy, the head of an

agency, could limit competition to one sole source for construction of that destroyer if he determined that it was in the public interest to do so. That is what the Competition in Contracting Act allows for—an exemption specifically directed to allow the head of an agency to certify to Congress that, with the interests of the public to be served, there be only one source for that contract.

Here we have the Secretary of the Navy competing—open, full, fair competition.

So, for those who argue that it is not open to competition, it is misleading.

Second, I indicated that I would be happy to strike all the language I constructed in an effort to satisfy the Senator from Louisiana.

As to the provisions that would require the Secretary of the Navy to have more competition unless he certifies that it would result in lower cost, meet the other requirements of the Navy—I offered in the committee to have the GAO make a certification to Congress. But nothing seems enough to satisfy the Senator from Louisiana.

His colleague has indicated that the Navy will save. The Navy has estimated that it will incur additional costs of about $22 million.

The Secretary of the Navy says:

> The current shipbuilding plan provides for three DDG-51's in FY-89, increasing to a level of five per year in subsequent years. Clearly, such a program does not contain sufficient quantities to make it economical to introduce new shipbuilders. Constructing these complex ships requires significant investment on the part of the contractor and the Navy. If future DDG-51 construction levels should rise to seven ships a year, the Navy could then add a third yard.

The Secretary of the Navy acted in behalf of the interests of this country on all the programs the Senator from Louisiana has cited; the Aegis cruiser, the FFG program, the SSN-688, the SSN-21. That has been the policy and practice which has yielded billions of dollars of savings to the American people.

So I urge my colleagues to defeat the amendment of the Senator from Louisiana.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana has 2 minutes and 16 seconds. The Senator from Maine has 2 minutes and 21 seconds remaining.

Time will be deducted equally against both.

Mr. JOHNSTON. Mr. President, I yield to Senator BREAUX.

Mr. BREAUX. I thank my senior colleague for yielding me time.

Mr. President, the Johnston amendment is about competition. The Navy is getting ready to consider building 26 additional destroyers. That is what we are talking about. Should we limit the competition to only two shipyards, or should say that any qualified American shipyard that is technically qualified has the right to submit a bid and that the low bidder who can do the job will get the job? That is what the Johnston amendment assures.

The other side says that the Navy has already had competition on the first three. That is the problem this amendment addresses. The way they were handled, particularly the third ship, will cost the American taxpayer almost $28 million for the destroyers' commission.

The third ship bid that was submitted by Bath is almost $28 million more than the previous low bid on the second ship.

The Navy said, "We already had competition." That competition is killing us. That is the kind of competition that causes us to pay hundreds of dollars for hammers and toilet seats. That is what is wrong with the process. That is why the Johnston amendment—if we are concerned about getting the biggest bang for the buck in the Defense Department—is so important. It says that on the next 26 ships, we will have open and full competition.

The Johnston amendment says that if the Navy feels that it is necessary in the future to limit competition, they can do so if it is necessary to meet the costs, the schedule, or the performance requirements of the Navy. Is that not enough for the other shipyards who want to limit competition?

In other words, the Johnston amendment clearly says that if they want to limit competition and it is going to be cost effective or important for the schedule of delivery or for the performance, they can do it. But if it does not give us a better cost bid, if it does not give us a better schedule or does not give us better performance, they cannot do it.

That is all the Johnston amendment does. The Johnston amendment says this nebulous term "or other requirements," whatever they may be, should not be part of the law of the United States.

Vote for the Johnston amendment for competition in this country.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Maine has 2 minutes and 15 seconds.

Mr. COHEN. Mr. President, I would simply respond, as I indicated before, that if the Senators from Louisiana were only interested in free and open competition, they would have accepted my proposal to strike all the language and just subject the entire bidding process to the Competition in Contracting Act.

They obviously were not interested in doing that and, therefore, are not interested in free and open competition according to that particular law.

I yield the remainder of my time to the Senator from Maine.

The PRESIDING OFFICER. The junior Senator from Maine.

Mr. MITCHELL. Mr. President, there is a very simple issue here. It is whether naval shipbuilding contracts are to be decided by the Navy under law or to be decided through the political process here on the Senate floor.

The Navy has conducted an open competitive process on this shipbuilding program that is the same as its process followed on the frigate program, the cruiser program, and the 688 class submarine program which saved the taxpayers of this country billions of dollars.

Not once did the Senator from Louisiana protest the use of that competitive process in those programs.

The Navy then initiated in 1985 the same competitive process on the destroyer program. Not once did the Senator from Louisiana protest that process.

Only now, after the yard in Louisiana has lost in that open competition, not once, but twice, only now do they come in and say we want to change the process, we want to change the rules, we want to write into law a process that will get our yard a contract, that they cannot win in the open competitive process. And that is the only issue here.

Are our Navy contracts, our military contracts, going to be decided as a result of the raw political process or are they going to be decided pursuant to law as the Navy has done it?

There has not been a single allegation here that the Competition in Contracting Act has been violated in any way. And it has not. The Navy has adhered to the law. It has saved the taxpayers billions of dollars and now a process which has been used successfully in three other major programs is under challenge here because one yard lost.

This is not a competition amendment. This is a sore loser amendment and if we approve this process then we can expect every losing competitor in a military contract from now on to come into here and ask that the rules be changed so that they can get a contract, and that is the issue before us.

Mr. HEFLIN. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Louisiana, Senator JOHNSTON, which, I believe, would place an undue burden on the Navy and unnecessarily micromanage the Navy in procurement of their new destroyer program.

Mr. President, I have, and will remain, an advocate of greater competition within the Defense Department. However, we should not go so far as to unnecessarily micromanage their activities. This amendment would do just that.

The Navy stated and followed through on their acquisition process and already held extensive competition on this program. The Senator from Louisiana is interested in allowing a shipyard from his State to compete in this program. However, the fact is that this shipyard, Avondale, has already competed twice and was not selected by the Navy on both occasions. Mr. President, there is simply no sense in forcing the Navy to go back and allow competition all over again.

The acquisition plan of the Navy for this destroyer program is such that only two shipyards would be included in the building process. In carrying out this process, the Navy held a full free and open competition for a lead shipyard in the program. As a result, a shipyard located in the State of Maine, Bath Iron Works, was selected as the lead shipyard, while the shipyard located in Louisiana was not selected.

Then, Mr. President, the Navy held a second full free and open competition for a follow-on shipyard for the destroyer program. During this second open competition, a shipyard in the State of Mississippi, Ingalls Shipyard, was selected. Again, Mr. President, the Avondale Shipyard was not selected by the Navy.

Now, Mr. President, the Senator from Louisiana wants the Avondale Shipyard to compete again on the program after they have lost twice. As I have said, I am not opposed to free and open competition. However, this amendment, at this point in the program, simply goes too far. Mr. President, we should not bring DOD contractual decisions to the floor of the U.S. Senate.

The Senate Armed Services Committee has already addressed this matter and taken care of it. They have included a provision in the bill which would require the Secretary of the Navy to certify that this is the best and most cost effective way to proceed with this acquisition plan. If the Secretary of the Navy cannot make this certification, the program will go the full and open competition again, and the Avondale Shipyard will get to bid a third time. The committee has also required a GAO report on the matter in order to ensure the cost effectiveness of the plan even further.

The Navy has successfully used this process of lead and follow-on shipyards on three other major surface vessel programs in the past. There is simply no sense in changing this process at this point in the program.

Mr. President, we should not do this here on the floor of the Senate. The Navy has already held two open and fair competitions on this program, and the winners and losers have been selected. The Senate has no business micromanaging this proven and successful competitive process at this stage in the game of this program. At the request of the Senator from Louisiana, the Armed Services Committee has addressed this matter, and we should let that language stand. I urge my colleague to reject this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. All time has expired.

The Senator from Mississippi.

Mr. STENNIS. Mr. President, on behalf of Senators COCHRAN, COHEN, MITCHELL, and myself, I move to table the amendment of the Senator from Louisiana.

Mr. COCHRAN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi to lay on the table the amendment of the Senator from Louisiana.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Massachusetts [Mr. KERRY] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Nebraska [Mr. KARNES], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Vermont [Mr. STAFFORD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 24, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—63

Adams	DeConcini	Humphrey
Armstrong	Dodd	Inouye
Baucus	Dole	Kasten
Bond	Evans	Kennedy
Boschwitz	Exon	Leahy
Byrd	Ford	Levin
Chafee	Glenn	Lugar
Chiles	Graham	Matsunaga
Cochran	Grassley	McCain
Cohen	Hatch	McConnell
Cranston	Hatfield	Mikulski
D'Amato	Hecht	Mitchell
Danforth	Heflin	Moynihan
Daschle	Heinz	Nunn
Packwood	Rockefeller	Specter
Pell	Rudman	Stennis
Pressler	Sanford	Stevens
Proxmire	Sarbanes	Thurmond
Pryor	Shelby	Trible
Quayle	Simon	Warner
Reid	Simpson	Weicker

NAYS—24

Bentsen	Fowler	Melcher
Bingaman	Gore	Murkowski
Bradley	Harkin	Nickles
Breaux	Helms	Riegle
Bumpers	Hollings	Roth
Burdick	Johnston	Sasser
Conrad	Lautenberg	Symms
Dixon	McClure	Wirth

NOT VOTING—13

Biden	Gramm	Stafford
Boren	Karnes	Wallop
Domenici	Kassebaum	Wilson
Durenberger	Kerry	
Garn	Metzenbaum	

So the motion to lay on the table amendment No. 2082 was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2083

(Purpose: To encourage the United States to conduct the overdue 5 year review of the ABM Treaty)

Mr. HELMS. Mr. President, I thank the Chair. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2083.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the pending amendment the following new section:

SEC. . (a) FINDINGS. Sense of the Congress on the Five-Year ABM Treaty Review:

(1) The Senate finds that the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, with Associated Protocol, (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty."

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore that the third five-year review of the ABM

Treaty should have begun on or about October 3, 1987.

(4) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused to meet on the date required to wit October 3, 1987, and that the United States, seven months later, still refuses to propose a date for this meeting.

(b) SENSE OF CONGRESS. Taking account of the findings of this Section, it is the sense of the Congress that the President should without any further delay propose an early date to conduct the overdue five-year review of the ABM Treaty and immediately thereafter inform the Congress of the results of that review.

Mr. HELMS. Mr. President, this amendment has been examined by both sides and approved by both sides, as I understand it, so we will make haste.

It is an important amendment. I will not require a rollcall vote on it because I think most Senators, if not all, would vote for it in any event. But let me explain the amendment briefly and then we shall see.

Mr. President, a number of months ago our distinguished colleague, the Senator from Arkansas, Senator BUMPERS, alluded during Senate debate a possible American violation of the ABM Treaty.

At that time, I asked the distinguished Senator to specify the violation he had in mind. He did not identify any such violation, and we did not pursue the matter.

Now, however, I find myself concurring with the view of the distinguished Senator that the United States has engaged in a violation of the ABM Treaty. Let me say quickly I think it is not what the Senator had in mind as a violation, if it is a violation, but we would have to speak to that.

In any event, article XIV, paragraph 2 of the ABM Treaty reads as follows—and the actual text is important because without understanding what it actually says some Senators may be misled by the glib arguments and obfuscations of the State Department lawyers—the provision precisely reads, "Five years after entry into force of this treaty, and at five-year intervals thereafter, the parties shall together conduct a review of this treaty."

Mr. President, the term "entry into force of this treaty" is a legal specification of a date certain. The Joint Commitee print entitled "Legislation on Foreign Relations" on page 69 states categorically that the ABM Treaty—and I quote—"Entered into force on October 3, 1972."

It follows, at least—as Sam Ervin used to say—at least to those who are able to read and understand the English language, that "five years after" October 3, 1972, is October 3, 1977, and that the date of two 5-year intervals after that date is October 3, 1987. Any other interpretation is contray to the plain meaning of the English words used.

In English, a year is the length of time it takes the Earth to orbit the Sun. In practical usage, it is either 365 days or 366 days in a leap year. Either way, it is precise and definite.

Perhaps the Russian version of a year is different, but I doubt it, and regardless we are, according to the rules and procedures of the Senate, bound by the English version. And the English version is unambiguous.

So, Mr. President, the point is this: On October 3, 1987, the parties did not conduct a review of the ABM Treaty, nor did they begin such review, nor did they even set a date for beginning such a review. So Senator BUMPERS was right. The United States violated the ABM Treaty, in my view.

They did none of those things, Mr. President, because the United States—the United States, not Russia—did not wished to do so. Some may believe that the United States wished to avoid this meeting because the administration would have been required to protest at least one material breach of the ABM Treaty by Russia. Some may believe that the administration may have not wished to discuss a material breach of one treaty amid the then ongoing public relations hype of the proposed INF Treaty.

In any case, Mr. President, the treaty said what it said. It said it in plain English. The United Staes of America is in violation of the treaty for not having conducted this review and I think it is high time that we corrected this defect and that is the purpose of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I find myself agreeing virtually completely with the Senator from North Carolina on this one. I think he has said it very well. I believe it was originally back on March 2 of this year, and he expressed these sentiments again this morning, that "Treaties are to be interpreted in an interpretation that is in accord with the plain meaning of the English language." And I agree with him. He is exactly right.

The Senator also said that: "Sometimes Senators understandably might be misled by the glib arguments and obfuscation of the State Department lawyers." I agree with that completely. I have had a few differences with them myself on what I felt was the plain English language of a treaty.

I think the Senator also says, and I agree with him completely, that "I refuse to be a yes-man to the U.S. State Department when they start playing fun and games with what a treaty says and what it means."

So in all of those statements the Senator and I are in complete accord. And I do agree with the Senator that "5-year intervals" means 5-year intervals. According to my calculations that would be October 3, 1987.

I guess the Senator might agree, it is as if you got home one day, it was your anniversary, and you forgot it. A day or two goes by and your wife says: "Well, I am wondering how long it is going to take you to remember our anniversary. It was on Sunday."

You say: "But, dear, anniversaries mean you can acknowledge it any time within the year following that date. Why should you be angry?" That is about where we are on this. October 3, 1987, means October 3, 1987. At least the parties should have started reviewing it then.

Mr. HELMS. Exactly.

Mr. NUNN. I agree with the Senator, and I think he is absolutely right. The problem is, this may be a little thing to some of the people in the State Department, or it may be a big thing. I am not sure. They think ignoring certain provisions for convenience sake may be a little thing.

I think when you start down that path, whether it is on a violation by the Soviet Union or whether it be obfuscation by the United States of a legal point, when you start down that path, there is no place to draw a line.

So I think the Senator is totally correct, and I urge our colleagues to adopt the amendment as written.

The Senator worked with our staff in working out certain language that would have related to the INF Treaty. That has been deleted, as I understand it. So we now have it clearly directed to the ABM Treaty and the anniversary date; is that correct?

Mr. HELMS. Correct.

Mr. NUNN. I urge the Senate adopt the amendment of the Senator from North Carolina as it has been submitted, which takes out all reference to the INF Treaty.

Mr. HELMS. Will the Senator yield for one observation?

Mr. NUNN. Yes.

Mr. HELMS. I cannot speak for the lovely Colleen Nunn, but I know that Dot Helms would not permit such interpretation of an anniversary as the State Department has apparently interpreted this one.

Mr. NUNN. I think Dot and Colleen would understand obfuscation when they ran into it. Occasionally I tried, but I very seldom succeeded.

Mr. HELMS. I thank the Senator.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I opposed the Helms amendment as offered but support the amendment.

I believe the administration should begin the ABM Treaty review conference in the near future. If the conference were to occur in late summer or

early fall, that would seem to be acceptable.

In that connection, I would point out that the Director of the Arms Control and Disarmament Agency, General Burns, has told the Foreign Relations Committee that he anticipates that the review will be held in late summer or early fall.

I do not believe that the parties were obligated to conduct the ABM Treaty review conference on October 3, 1987. As General Burns told the Committee, "the United States and the Soviet Union have until October 2, 1988 to accomplish the ABM Treaty Review." General Burns also pointed out, "The United States has consistently taken the position that 5-year review conferences must be initiated, but need not be completed, within the year following the date of the 5-year anniversary."

Mr. President, I ask unanimous consent that the responses of General Burns to the Foreign Relations Committee be inserted in the RECORD.

There being no objection, the responses were ordered to be printed in the RECORD, as follows:

5.Q. Why has there been no ABM Treaty Review this five year anniversary when past practice was to do it close to the anniversary?

A. Under the Treaty, the United States and the Soviet Union have until October 2, 1988 to accomplish the ABM Treaty Review. The Treaty Review, however, is but one of a number of fora for discussing ABM Treaty related issues. Besides the two sessions each year of the SCC, one of which is going on at this time in Geneva, issues related to the ABM Treaty, including Soviet compliance, are being extensively discussed in the NST negotiations as well as other diplomatic channels. In view of this related activity, I anticipate the Review will be held in late summer or early fall so as to take advantage of the outcome of these discussions. The forum and the agenda for the Review will be decided on that basis, as well.

6.Q. What is ACDA's view of the Helms ABM Treaty Review Amendment proposed and subsequently withdrawn from the Intelligence Oversight Bill?

A. The United States is in full compliance with the ABM Treaty. Paragraph 2 of Article XIV says that "Five years after the entry into force of this Treaty, and at five year intervals thereafter, the Parties shall together conduct a review of this Treaty." This provision is similar, but not identical, to provisions in other arms control treaties that have five-year review conferences, including Article VIII of the Non-Proliferation Treaty, Article VII of the Seabed Arms Control Treaty (which requires only a single five-year review), Article XII of the Biological Weapons Convention (which requires only a single five-year review), and Article VIII of the Environmental Modification Convention. Since the Parties cannot be expected to conduct their reviews exactly upon the five-year anniversaries, the question has risen in the past as to when a conference must be initiated if the Parties are to be in compliance with a review conference provision. The United States has consistently taken the position that five-year review conferences must be initiated, but need not be completed, within the year following the date of the five-year anniversary. This is because, where the provisions do not set a more precise date, the Parties will be in compliance as long as the period does not extend to becoming a six-year period. For example, the second NPT five-year review conference was initiated in August 1980, and the third NPT five-year review conference was initiated in September 1985, which were five months and six months, respectively, after the March 5 anniversary date.

NEW AND CONCLUSIVE EVIDENCE OF SOVIET NATIONWIDE ABM BREAKOUT

Mr. SYMMS. Mr. President, there is now conclusive, clearcut evidence that the Soviet Union has broken out of the ABM Treaty by deploying the prohibited base for an illegal nationwide ABM defense.

In late 1981, our distinguished colleague Senator DAVID BOREN, who is now the chairman of the Senate Select Committee on Intelligence, stated that the Soviets were:

Testing . . . air defense radars and missiles in an ABM mode, providing the breakout potential for a nationwide ABM defense . . . [and] building new large ABM battle-management radars and a rapidly deployable new ABM system, adding further to a nationwide ABM breakout potential.

Senator BOREN was absolutely right in 1981 to predict Soviet ABM breakout, and he is absolutely right to be even more worried about Soviet nationwide ABM breakout today.

President Reagan himself stated on October 13, 1985, that: "For some years now we have been aware that the Soviets have been developing a nationwide defense" in violation of the ABM Treaty. President Reagan was correct.

As recently as March 14, 1988, President Reagan stated: "The Soviets may be preparing a nationwide ABM defense of their territory. In other words, they may be preparing to break out of the ABM Treaty." Again, President Reagan was correct.

The CIA made the same correct prediction in a declassified national intelligence estimate on June 26, 1985:

The Soviets will significantly improve the capabilities of their strategic defenses [by the early 1990s.] We are particularly concerned that the Soviets' continuing development efforts give them the potential for widespread ABM deployments. The Soviets have the major components for an ABM system that could be used for widespread ABM deployments well in excess of ABM Treaty limits. The components include radars, and aboveground launcher, and the high acceleration missile that will be deployed around Moscow. The potential exists for the production lines associated with the upgrade of the Moscow ABM system to be used to support a widespread deployment.

Mr. Frank Gaffney, until last November the Assistant Secretary of Defense Designate for International Security Policy, stated recently that the evidence "is conclusive that the Soviets are now breaking out of the ABM Treaty." He added that "the evidence is mounting daily." Mr. Gaffney is also correct.

SUMMARY

Here is a summary of why Senator BOREN's, President Reagan's, Mr. Gaffney's, and CIA's estimates are all coming true. The Soviet ABM breakout is in addition to the confirmed Krasnoyarsk and Gomel radar clearcut violations of the ABM Treaty.

The Administration has made a new assessment that each of the now 10 Large Phased Array Radars (LPARs) in the Krasnoyarsk-Pechora-Sevastopol Class should be considered to be violations of the Treaty, because each is an ABM Battle Management radar. As such, these radars can only be legally located at Moscow or Sary Shagan. This is evidence that 9 of the 10 LPARs, all but the Sary Shagan LPAR, are each illegal ABM Battle Management radars.

Secondly and even more significantly, the Sary Shagan LPAR is an ABM Battle Management radar. While the Sary Shagan ABM LPAR is itself legally sited, the implication of this new conclusion is that 5 other LPARs which are identical to it clearly must also be categorized as ABM Battle Management radars.

Thus two bodies of evidence—the inherent ABM Battle Management capabilities of the 10 LPARs themselves, and the configuration of 5 as identical to the confirmed Sary Shagan ABM Battle Management radar—point to the conclusion that 9 of the 10 LPARs are illegal ABM Battle Management radars. Morever, all 10 are internetted and form the prohibited integrated base for an illegal nationwide ABM defense. Thus even the Sary Shagan ABM LPAR is illegal because it is part of an illegal integrated network forming the prohibited base for a prohibited nationwide ABM defense. This is conclusive evidence of Soviet nationwide ABM defense breakout.

In sum, the 10 LPARs now nearing completion form a prohibited base for an illegal nationwide ABM defense, in clear violation of the fundamental provision of the Treaty. There are already 31 large ABM radars, 4,500 Soviet ABM-capable interceptors deployed, together with 7,000 small engagement radars, and the Soviets are already reportedly mass producing 3,000 mobile ABM interceptors.

Finally, the required third five year review of the ABM Treaty is now over seven months overdue, and must be conducted as soon as possible. The main reason that the State Department has delayed conducting this legally required third five year review is that it would finally force the U.S. directly and formally to confront the Soviets on their breakout violations. The multiple Soviet ABM breakout violations are "material breaches" of the Treaty under international law. The U.S. has only two main options in this third required five year review—either to withdraw from the Treaty and take proportionate responses, or cover-up and condone the conclusive Soviet break out violations.

SHOULD THE U.S. WITHDRAW FROM THE ABM TREATY?

On September 12, 1987, President Reagan himself argued publicly that because of confirmed, conclusive Soviet "breakout" violations of the ABM Treaty:

"We should look realistically" at whether the U.S. should withdraw from the ABM Treaty.

President Reagan added, however, that additional Soviet ABM violations make the Soviets "much more prepared to take advantage" of withdrawal than we are.

It is true that the Soviets are more prepared to take advantage of abrogation of the ABM Treaty, but this is merely because they have already abrogated it by breaking out of the treaty. The problem is not Soviet withdrawal from the ABM Treaty—it is Soviet breakout into a prohibited nationwide ABM defense, while the United States remains in full compliance even with its own even more restrictive "narrow" interpretation of the ABM Treaty. The United States is totally unprepared for a Soviet ABM breakout. This United States unpreparedness for Soviet ABM breakout does not reflect well upon the realism and effectiveness of American defense planning.

The Joint Chiefs of Staff reportedly believe that as bad as the clearcut Soviet breakout violations of the ABM Treaty are for American national security, the United States must not only remain within the treaty, but the United States must also remain within its own unilateral "narrow" interpretation of the ABM Treaty. This JCS judgment is based on the thin hope that somehow the ABM Treaty restrains, albeit even only slightly, Soviet nationwide ABM defenses. But if the ABM Treaty restrains only American defense and not Soviet, then the ABM Treaty may be contrary to fundamental United States national security interests. United States reluctance to withdraw from the ABM Treaty in response to Soviet breakout violations can only be described as appeasement.

KENNEDY-KHRUSHCHEV AGREEMENT ALSO DOES NOT CONSTRAIN THE SOVIETS

Agreements that the Soviets are not complying with simply do not contribute to American national security.

The Secretary of State similarly reassured the Senate in 1983 regarding the Kennedy-Khrushchev agreement. Secretary Shultz stated that while the Kennedy-Khrushchev agreement was difficult to enforce, depending as it does on demonstrating American political will to enforce the Monroe Doctrine, the agreement was better than nothing because the Soviets would be prevented from increasing the number of their Mig-23 nuclear-delivery-capable fighter-bombers in Cuba.

But since the Secretary made this statement, the number of Soviet Mig-23's in Cuba has doubled, from 36 Mig-23's to over 55, in further violation of the Kennedy-Khrushchev agreement.

Likewise, given proof of the Soviet exploitation of the American lack of political will to enforce the Kennedy-Khrushchev agreement, we should not be deluded into believing that the ABM Treaty will restrain Soviet nationwide ABM defenses.

SOVIET NUCLEAR BLACKMAIL AND AMERICAN APPEASEMENT

Most ominously, President Reagan stated on March 18, 1985, that:

They [the Soviets] already outnumber us greatly in offensive weapons, and if they alone developed a defensive weapon before us, then they wouldn't have to worry about our deterrent—a retaliatory strike. Then they could issue an ultimatum to the world.

But the Soviets alone are now close to having a nationwide ABM defense operational. Must we wait for their ultimatum, or are we already seeing the diplomatic effects of Soviet nuclear blackmail in unequal arms control and other international security agreements in Afghanistan and Nicaragua?

In addition, it is shameful that top American leaders are saying privately that America is not in the political mood to penalize the Soviets for their arms control treaty violations. Some top American leaders are actually disgracefully conceding that America lacks the political will to deter the Soviets from their ongoing military buildup in violation of all SALT treaties or from their aggressive foreign policy. These leaders are saying that we do not have the political will to do what we need to do in our own defense; they are in effect saying that American appeasement is our only alternative for dealing with relentlessly increasing Soviet power.

SIGNIFICANCE OF NEW ASSESSMENTS OF SOVIET ABM RADARS

The Senate should be informed of some new administration assessments pointing to new Soviet nationwide ABM breakout violations of the ABM Treaty. These assessments are all unclassified, and they are new—they have just been received from the administration.

The new assessments demonstrate clearly that the administration has concluded that each of the 10 Pechora-Krasnoyarsk-Sevastopol class radars is itself an ABM battle management radar, and thus each of the 10 radars itself is a separate violation of the ABM Treaty. Moreover, the new assessments mean that the Soviets have established an illegal base for a prohibited nationwide ABM defense. These new assessments in turn provide conclusive evidence that the Soviets have broken out of the ABM Treaty by deploying the base for a nationwide ABM defense, as well as the nationwide defense itself.

The question of Soviet ABM breakout is not whether, but when. And the when is—now. According to a carefully researched book, published in 1986 by the authoritative Mr. Bill Lee, of the Defense Intelligence Agency:

[The Soviet air, space, and ABM defense organization] PVO also developed the flat twin transportable missile-engagement radar designed for use in conjunction with the Pechora-class radars and with the SH-8 high acceleration interceptor. . . . The new Moscow ABM defenses and the second generation of large phased array radars will probably be completed during the period 1986-1988. The Soviets would then appear to be in an excellent position to break out of the ABM Treaty by deploying their ABM-X-3 system. Completion of the Moscow defenses will require that most, or perhaps all, of the major components already be in series production. . . . Past testing of SAMs in an ABM environment, and the ABM potential of the new SA-X-12, heighten concerns of a Soviet breakout . . . these [Pechora class] battle-management radars make possible some degree of national ABM defenses as the SA-10 and SA-X-12 systems are deployed, because both of them "have capabilities to intercept some types of U.S. ballistic strategic missile RVs" . . . by about the time PVO deploys large numbers of its new SAMs in the mid-1980s, the USSR will probably have the capability to install the kind of ABM defenses the U.S. started to deploy in the late 1960s. . . . There are many indications that the Soviets will break out before the end of the 1980's. . . . The USSR already has high-acceleration, low-altitude interceptor technology, small phased array radar and computer technology that is comparable to or better than similar U.S. technology of a decade ago. . . . The Soviets will soon have sufficiently large ABM battle-management radars in operation to make nationwide deployments a reality. . . . Recent intelligence assessments of ABM capabilities for the SA-10 and the SA-X-12 also could mean that nationwide deployment of at least limited ABM defenses may be underway . . . [everything indicates that the Soviets] are following a breakout scenario.

Moreover, according to press reports, the CIA has stated:

The Soviets have developed all the required components for an ABM system that would be deployed not only to augment the defenses around Moscow, but also for widespread deployments beyond Moscow in excess of ABM Treaty limits. These components include the Flat Twin engagement radar, the Pawn Shop guidance radar, and an aboveground launcher for the Gazelle SH-08 interceptor. As compared with a silo-based version, a site for the mobile SH-08 could be deployed relatively rapidly, in months rather than years. These components have not been tested together since 1984, but the 1984 full system test of the Gazelle with the Flat Twin represents the culmination of the final phase of testing, and the Soviets are still emphasizing a deployment option for the Gazelle and Flat Twin. Nationwide breakout technically could begin at any time if the Soviets had made the decision and started preparations 1 year or 2 ago. The major components of a rapidly deployable ABM system continue to be operated at the test facility at Sary Shagan and major successful testing integrating Gazelle and its Flat Twin radar was conducted in 1984. The full-system has completed testing, including full system testing against live targets, and this indicates that the system is available for deployment. The Soviets would almost certainly take steps to deploy their own ABM system in the 1990s if the U.S. was proceeding with SDI, using SH-08/Flat Twin or new and modified components.

The ABM-capable SAM-12B system is reportedly about to be deployed. The Soviets reportedly now have several ABM breakout options for deployment of mobile SH-04 and SH-08 interceptors that can be taken "off the shelf," which means these interceptors may already have been produced. SH-08's may have already been covertly deployed. According to recent press reports, the floor space of the plant manufacturing the SH-08 has doubled in size, despite the completion of the required interceptors for the legal Moscow ABM system. This doubling of floor space suggests series production of large numbers of SH-08 interceptors for nationwide deployment—reportedly 3,000.

There are already 2,500 SAM-5 ABM-capable interceptors deployed nationwide, together with 2,000 SAM-10 ABM-capable interceptors. There are about 7,000 small ABM-capable engagement radars associated with these two systems. There are 31 Soviet large ABM radars. Given the near completion of the long-leadtime LPAR network, lack of evidence of SH-08 ABM interceptor deployment to go with the network could itself be evidence of covert interceptor deployment.

The SH-04, SH-08, SH-11, SAM-5, SAM-10, and SAM-12B interceptors are reportedly all believed to be equipped with the low yield nuclear warheads required for ABM usage.

There are also press reports that ABM point defenses are being constructed at deep underground command and control bunkers and other widely scattered strategic sites around the U.S.S.R.

Indeed, we should be deeply worried that because the long-leadtime component of a nationwide ABM defense—the LPAR network—is almost completed, other already produced but covertly deployed ABM interceptors that go with these LPAR's probably already exist, but they are not detected. Given also the high degree of Soviet efforts at data denial, indeed, we should assume that other undetected interceptors are already produced and are deployed covertly nationwide.

But as shall be seen, there is also much other additional new unclassified evidence of a Soviet nationwide ABM defense breakout. There are now two Soviet "material breach" violations of the ABM Treaty confirmed by conclusive intelligence evidence, Soviet admission, and by the President and the Congress. Both of these confirmed Soviet "material breaches" of the ABM Treaty help provide an illegal base for a Soviet nationwide ABM defense, which is prohibited by the ABM Treaty. Together, these two violations themselves constitute Soviet nationwide ABM breakout, especially when combined with many other bodies of evidence of Soviet ABM breakout with covert interceptor missile deployments.

In sum, the Soviets have not been prevented by the ABM Treaty from constructing the illegal base for an illegal nationwide ABM defense. They are constructing a nationwide ABM defense itself, in full-scale breakout.

Beyond many other bodies of evidence of Soviet nationwide ABM breakout, we will review first all the unclassified evidence of Soviet nationwide ABM breakout.

NEW ADMINISTRATION NATIONWIDE ABM BREAKOUT ASSESSMENTS

The administration has recently provided to the Senate the following new unclassified judgments:

1. All LPARs (Large Phased Array Radars), such as the Pechora-Krasnoyarsk class radars, . . . also have the inherent capability . . . of contributing to ABM battle management. Taken together, the Pechora-Krasnoyarsk class radars and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory.

This administration assessment means that each of the 10 LPAR's must be considered an ABM battle management radar, just as the Joint Chiefs of Staff stated in 1980, and thus each radar is a separate, distinct violation of the AMB Treaty. CIA also has stated publicly that:

These radars will be technically capable of providing battle management support to a widespread ABM system.

2. LPARs have always been considered to be the long lead-time elements of a possible territorial defense. A standard role for the Pechora class LPARs is acquisition of attack characterization data that could aid in planning the battle for Soviet defensive forces and deciding timely offensive responses . . . Thus, LPARs also have the inherent capability of contributing to ABM battle management.

Here again, each of the 10 LPAR's must be considered to be an ABM battle management radar, and therefore separate violations of the ABM Treaty.

3. The Pechora-Krasnoyarsk class radars are the world's most powerful radars.

These 10 radars are each reportedly many times more powerful than each of the 12 U.S. ABM radars planned in 1972. Clearly, this high power gives them ABM battle management capabilities.

4. The Pechora-Krasnoyarsk class radars can track large numbers of objects very accurately, and the data from these radars can be used for any number of purposes to include early warning, attack assessments, battle management, and other kinds of ABM-related functions.

This, too, is further evidence that each of the 10 LPAR's are ABM battle management radars.

5. The redundant, overlapping, interneted coverage that the Pechora-Krasnoyarsk class radars provide by virtue of the size and the phased array nature of the radars is much better than you need for early warning.

This finally is further evidence that each of the 10 LPAR's are intended for ABM battle management.

6. Even radars in the Moscow area that are acknowledged by the Soviets to be ABM radars are not hardened.

This statement is evidence, therefore, that LPAR's need not be hardened in order to be for ABM battle management. And finally:

7. "The introduction of Soviet mobile ICBMs certainly complicates the dividing line between the allowed Soviet National Command Authority defense, and a prohibited ICBM defense.

This means that all Soviet SS-14 and SS-15 mobile ICBM's deployed near Moscow can be defended by the Moscow ABM system. In addition, a large proportion of Soviet fixed, MIRV'd ICBM silos are located near Moscow, also within range of the Moscow ABM defenses. Indeed, probably about 30 percent of the Soviet ICBM force can be defended by the Moscow ABM.

In sum, the following conclusions can be drawn, based upon the new administration assessments:

First, the internetted, integrated network of 10 Pechora-Krasnoyarsk-Sevastopol class LPAR's indeed does contribute key capabilities useful for a base for a nationwide ABM defense. In fact, the entire 10 LPAR network clearly constitutes a prohibited integrated base for an illegal nationwide ABM defense.

Second, the Krasnoyarsk radar's siting is ideal for enabling it to provide accurate RV impact predictions for nearly ICBM fields. This siting is thus ideal for battle management.

Third, given this ideal siting for ABM battle management for the Krasnoyarsk radar, this siting is therefore further evidence that the Krasnoyarsk radar is an ABM battle management radar. The nine other LPAR's are all very similar to Krasnoyarsk, and Krasnoyarsk is a battle management radar.

Fourth, the similarity of each of the other 9 LPAR's to the Krasnoyarsk ABM battle management radar means that in fact all 10 LPAR's are ABM battle management radars.

Fifth, in addition to the entire LPAR network being violation of the ABM Treaty by being the prohibited base for a nationwide ABM defense, each individual LPAR is a violation because it is internetted with the others and therefore is an ABM battle management radar.

Sixth, U.S. intelligence should therefore expect to detect other ABM interceptors near Krasnoyarsk, which would be positioned to receive handoff data from Krasnoyarsk for their engagement radars. We should also expect to detect interceptors near all the others, and nationwide. Indeed, there are already many ABM-capable SAM-5's and SAM-10's deployed near

Krasnoyarsk. And Krasnoyarsk is located optimally for defense of another 30 percent of the Soviet ICBM forces. Thus the Moscow and Krasnoyarsk ABM systems themselves can probably defend over 60 percent of the Soviet ICBM force.

Seventh, given the evidence that the network of 10 LPAR's is a base for a nationwide ABM defense, and given the further evidence that each of the 10 LPAR's is an ABM battle management radar, it would be prudent for U.S. intelligence to predict covert deployment of other ABM interceptors nationwide. The evidence of an LPAR network base for nationwide ABM defense, the long-leadtime component, together with 10 individual ABM battle management radars, indicates clearly that the Soviets are breaking out of the ABM Treaty. Indeed, there are already about 4,500 ABM-capable SAM-5's and SAM-10's deployed nationwide. Moreover, thousands of ABM-capable SAM-12B's are reportedly now being mass produced, and over 3,000 SH-08 ABM interceptors are reportedly planned and already in series production at a plant that has recently doubled in size.

CORRECT CATEGORIZATION OF SARY SHAGAN LPAR—EITHER CONFIRMATION OF NATIONWIDE ABM DEFENSE BREAK OUT OR ANOTHER KRASNOYARSK SMOKING GUN

The correct categorization of the Pechora-Krasnoyarsk-Sevastopol class LPAR at Sary Shagan is the final key piece of evidence of the Soviet break out into a nationwide defense.

The President has reported that the Krasnoyarsk LPAR was identical to the Sary Shagan LPAR, but the President added incorrectly that the Sary Shagan LPAR was exempted from the requirements of article VI constraining early warning radar location because it was located at a test range. Article VI states that each party undertakes "not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward."

But article IV is the provision on test range exemptions, and article IV states:

The limitations provided for in article III [i.e. on allowed ABM deployments] shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges . . .

This means that test ranges are exempted from constraints only on ABM radar deployments, but test ranges are clearly not exempted from the restrictions on early warning radars embodied in article VI. Therefore, if an LPAR is at a test range, it can legally be only one thing—it can only be an ABM battle management radar. If it is an ABM battle management radar, it is exempted by article IV's test range exemption, but only from the restrictions on ABM deployments in article III.

As noted, the President reported to Congress on January 23, 1984, that the Sary Shagan LPAR was an early warning radar. The President incorrectly reported further that an early warning radar could be located at a test range, thus exempting it from the requirements of article VI on early warning radars. But the only exemption for radars at test ranges, however, pertain to article III limitations.

In sum, the LPAR at Sary Shagan is either an ABM battle management radar, in which case it is legal if located at Sary Shagan under the article IV test range exemption, or it is an early warning radar. Five of the other LPAR's are identical to the Sary Shagan LPAR, so if it is an ABM battle management radar, so are all five of the others. If, on the other hand, it is an early warning radar, it can not be located at a test range, and further, it must be on the periphery and oriented outward. But the Sary Shagan LPAR is several hundred kilometers into the interior of the U.S.S.R., and further, it is oriented obliquely across the further interior of the U.S.S.R. in the direction of the Indian Ocean.

Thus there are only two choices on how to categorize the Sary Shagan LPAR correctly—either it is itself a legally located ABM battle management radar at a test range, but it is identical to 5 of the other 10 LPAR's, each of which also must be considered to be ABM battle management radars, and they therefore constitute an illegal base for an illegal nationwide ABM defense. And since the Sary Shagan ABM radar is an integral part of the prohibited base for the illegal nationwide ABM defense, it too would be illegal. Or alternatively, the Sary Shagan LPAR is an early warning radar, and as such it must be on the periphery and oriented outward, according to article VI. But it is not, so it must be regarded as another Krasnoyarsk, clear-out violation.

In either case, the Sary Shagan LPAR's correct categorization increases the evidence that the Soviet's are breaking out of the ABM Treaty.

The strongest evidence supports the conclusion that the Sary Shagan LPAR is an ABM battle management radar, and that it and the other five LPAR's identical to it form the illegal base for a prohibited nationwide AMB defense.

OTHER EVIDENCE OF SOVIET NATIONWIDE ABM DEFENSE BREAKOUT

It is important to emphasize a very important judgment made in President Reagan's December 1, 1987, seventh report to Congress on Soviet SALT violations:

"In no case where we determined that the Soviet Union was in violation of SALT I and SALT II did the Soviets take corrective action."

This means that the Soviets have not corrected any of their ABM Treaty violations. Indeed, there is an expanding pattern of Soviet ABM Treaty violations.

The Soviet Krasnoyarsk radar is a clear violation of the ABM Treaty, which the President has reported is "based on conclusive evidence." Moreover, in diplomatic channels, the Soviets have conceded that the Pechora radar is an early warning radar, and this radar is identical to the Krasnoyarsk radar. The Soviet claim that Krasnoyarsk is a space-tracking radar is contradicted by these facts.

Thus the Soviets have in effect admitted in diplomatic channels that Krasnoyarsk is a violation.

The CIA has also recently provided the following declassified additional judgment:

The United States is aware that, over the last several years, Soviet officials have indicated that the Krasnoyarsk radar is a violation of the ABM Treaty.

This means that the Soviets have admitted privately to themselves that Krasnoyarsk is a violation. Soviet scientists are also privately admitting that Krasnoyarsk is a violation, according to open testimony from expert witnesses before the Senate Committee on Foreign Relations. There are press reports of Soviet admissions that Soviet Defense Minister Dimitri Ustinov deliberately planned the Krasnoyarsk radar violation in 1972, precisely when the SALT I ABM Treaty was signed, and when Ustinov was Party Secretary and Politburo member in charge of the defense industries. This further evidence confirms that the Soviet leaders knew from the early 1970's, when they first planned its construction, that Krasnoyarsk was a clear violation. Thus there is now clear-cut evidence that the Soviet leadership signed the ABM Treaty full intending at the outset to violate it—the Soviets have publicly admitted this themselves.

During 1987, both the Senate and the House of Representatives voted overwhelmingly in agreement with the President that the Krasnoyarsk radar was a clear violation of the ABM Treaty. On May 7, 1987, the House voted unanimously, 418 to 0. The Senate voted overwhelmingly, 93 to 5, in September 1987, and on February 23, 1987, the Senate also voted 93 to 2 that the Krasnoyarsk radar was an important obstacle to the advice and consent of two thirds of the Senate to the ratification of the proposed INF Treaty. Krasnoyarsk thus constitutes a material breach of the ABM Treaty.

Moreover, in his December report President Reagan referred for the first time to "the new violation in the deployment of the Flat Twin and Pawn

Shop observed at Gomel." The President added that:

The U.S. Government finds that the USSR's activities with respect to moving a Flat Twin ABM radar and a Pawn Shop van, a component of an ABM system, from a test range and initiating deployment at a location [i.e. Gomel] outside of an ABM deployment area or ABM test range constitutes a violation of the ABM Treaty . . . This and other ABM-related Soviet activities suggest that the USSR may be preparing an ABM defense of its national territory.

The Soviets have admitted in diplomatic channels that precisely the very same Flat Twin/Pawn Shop radars now deployed at Gomel are ABM radars. They have admitted further that if such ABM radars were ever located outside a test range or the allowed Moscow deployment area, this deployment would constitute a prohibited base for a prohibited nationwide ABM defense, thereby violating the most important provision of the ABM Treaty, article I. But more recently, the Soviets have even lied to the United States about their Gomel ABM violations, now claiming falsely that this activity is not a violation. Moreover, the Soviets have recently falsely claimed that the Flat Twin/Pawn Shop ABM radars were sent to Gomel to be dismantled, when the United States knows that this was not accurate. Gomel thus also constitutes a material breach.

There is other strong evidence that the Soviets are deploying a nationwide ABM defense, which violates the ABM Treaty's ban on developing even a base for a nationwide ABM defense.

President Reagan also stated that over 100 ABM-mode tests of Soviet SAM-5, SAM-10, and SAM-12 surface-to-air missiles and radars are "highly probable" violations of the ABM Treaty. In fact, he added that: "In recent years, we have gathered an increased amount of evidence" on Soviet ABM-mode tests of SAM systems.

Indeed, two top Soviet officials have actually admitted that the Soviet SAM-5/10/12 were originally designed to have ABM capabilities.

The Soviets have already deployed over 2,500 SAM-5 ABM-capable engagement radars nationwide, and over 2,500 SAM-5 ABM-capable interceptors, 2,000 to 4,000 SAM-10 ABM-capable interceptors, and about 1,000 SAM-12A interceptors, plus reportedly about 500 SH-08 mobile ABM interceptors—with 3,000 planned, and already in series production.

The President has reported further that the mobility of the Soviet ABM-3 system is a violation of the ABM Treaty's prohibition on mobile ABM's. The Soviets reportedly are now mass producing the mobile ABM-3 system—SH-04 and SH-08 interceptors and Flat Twin radars—for rapid nationwide deployment.

The Soviet rapid reload capability for ABM launchers is a serious cause for concern. The State and Defense Departments state that the Soviets "may" have a prohibited rapidly reloadable ABM system.

President Reagan said in December:

The U.S. Government reaffirms the judgment of the March 1987 Report that the aggregate of the Soviet Union's ABM and ABM-related actions (e.g., LPAR radar construction, concurrent SAM-ABM mode testing, SAM upgrade, ABM rapid reload, ABM mobility, and deployment of ABM components to Gomel) suggests that the USSR may be preparing an ABM defense of its national territory. Our concern continues . . . The redundancy in coverage provided by these new radars [the 10 Pechora-Krasnoyarsk-Sevastopol Class radars] and the disposition of these radars closely resembles the design of the U.S. Safeguard ABM program.

The U.S. Safeguard Program was designed to be a 12-site, nationwide ABM system.

Reportedly, radar internetting, calibration, and "hand-off" exercises have already been detected between some of the LPAR's, the Moscow Pill Box, and the smaller ABM-capable engagement radars. The internetting of ABM-capable SAM radars with LPAR's obviates the search for incoming RV's by smaller engagement radars. Indeed, Soviet writings have discussed the integration and internetting of ABM and ABM-capable SAM radar systems, including hand-off operations.

The Secretary of Defense testified to the Senate in 1985 that the "Soviets have some nationwide ABM capability" already. In his December 1985 report to Congress on Soviet SALT violations, President Reagan has also stated that a unilateral Soviet ABM defense:

Would have profound implications for the vital East-West balance. A unilaterial Soviet territorial ABM capability acquired in violation of the ABM Treaty could erode our deterrent and leave doubts about its credibility.

Finally, the CIA has recently declassified the following important statement:

In totality, these Soviet ABM activities provide a strong basis for concern that the USSR might have an integrated plan for an ABM defense of its national territory, and might be working toward it.

Thus even the CIA seems to believe that the Soviets are achieving a nationwide ABM defense breakout.

Further, as the administration stated in October 1985:

The aggregate of current Soviet ABM and ABM/related activities suggested that the USSR may be preparing an ABM defense of its national territory—precisely what the ABM Treaty was designed to prevent.

As the Secretary of Defense has warned:

The deployment of such a large number of radars, and the pattern of their deployment, together with other Soviet ABM-related activities, suggest that the Soviet Union may be preparing a nationwide ABM defense in violation of the ABM Treaty. Such a development would have the gravest implications on the United States-Soviet strategic balance. Nothing could be more dangerous to the security of the West and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities.

There is also unclassified evidence that the SH-11 exoatmospheric ABM interceptor, reportedly now operational in 16 silos around Moscow, uses an infrared optical target acquisition, tracking, and homing system. At the time that the ABM Treaty was signed in 1972, however, only ABM radars and inertial guidance were used for target acquisition, tracking, and guidance. Therefore, the SH-11's infrared system used for target aquisition, tracking, and guidance is a substitute for ABM components in existence in 1972—radars and inertial quidance. The SH-11 is therefore based on "other physical principles," not in use with ABM systems in 1972. Thus the SH-11's deployment violates even the "broad" interpretation of the ABM Treaty.

On February 7, 1988, the Soviet publication Moscow News openly admitted that their SH-11 used an infrared tracking and homing system, while trying to deny that this was a violation of the ABM Treaty. But this Soviet admission confirms that the SH-11 is a violation.

The CIA reportedly suppressed this evidence for several years, and did not report this evidence until just before the December 7, 1987 Pearl Harbor summit. The CIA's report only came after the administration had already lost the congressional debate over the narrow, restrictive interpretation of the ABM Treaty, versus the legally correct interpretation.

ABM TREATY NEGOTIATING RECORD INDICATES SOVIET INTENTION TO DEPLOY NATIONWIDE DEFENSE

Finally, several other important new facts emerge from an unclassified review of the ABM Treaty negotiating record provided in the Ph.D. dissertation of a leading defense expert. The Soviet ABM network allowed under the terms of the ABM Treaty indicates a deliberate Soviet plan to use this network as a base for a nationwide ABM defense in direct contravention of article I of the ABM Treaty. The Soviets have gained a huge advantage over the United States by constructing a large and extensive network of long-lead time radars.

First, during the 1969-72 negotiations on the ABM Treaty, the United States argued that Soviet construction of a large network of LPAR's would be the crucial part of a Soviet nationwide ABM defense. The United States negotiated unsuccessfully to try to ban this possibility. But Soviet deployment of the base for a nationwide ABM defense is exactly what has been de-

ployed. With this LPAR network now in place, the Soviets could clandestinely assemble short-lead time and transportation items such as interceptors, launchers, and smaller engagement radars necessary to complete a nationwide network.

The allowable Soviet LPAR's agreed to under the terms of the ABM Treaty are far more numerous than the low number in the original American position. "Agreed Statement F" ostensibly on radar limits does not apply to the LPAR's that the United States was most interested in controlling in SALT from the outset of the SALT negotiations.

When the Krasnoyarsk radar violation is seen in the context of the original concerns and intentions of U.S. SALT negotiators in limiting LPAR's, the Krasnoyarsk radar is extremely significant militarily, and it reveals Soviet preparations that could support a nationwide ABM defense.

It is undeniable that the location, power level, size, type, orientation, and signal characteristics of Soviet LPAR's give them the capability to identify, track, discriminate, and predict the impact points of reentry vehicles.

In sum, the Soviets have not been forbidden by the ABM Treaty from constructing what must be considered the base for a nationwide ABM defense. The United States negotiating position on LPAR's shifted from a complete prohibition, to the acceptance of existing Soviet LPAR's such as hen house radars but with a ban on future complexes, and finally to no restrictions on LPAR deployment except for location and orientation. And even that constraint was subsequently ignored with the Krasnoyarsk radar. Agreed Interpretation F together with articles II, III, and VI, supposedly regulated LPAR's, but in actuality these provisions allowed an expansion rather than a constraint on the peripheral Soviet network of LPAR's. The Soviets chose to exploit a right to deploy, without numerical limits, LPAR's on the periphery of their territory, even when those LPAR deployments defeated the key purpose of the ABM Treaty.

The decision by Soviet leaders to build Pechora class radars on the periphery of the Soviet Union occurred in the mid-1960's, and the decision to build the Krasnoyarsk LPAR away from the periphery occurred in the early 1970's. The process of building these radars began before SALT began, and continued during and after negotiations on the ABM Treaty. It was widely acknowledged by experts that without restrictions on LPAR's, the integrity of the ABM Treaty would be in doubt.

U.S. FEAR OF CONFRONTING THE SOVIETS OVER THEIR ABM TREATY VIOLATIONS?

Article XIV(2) of the SALT I ABM Treaty, states:

Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

The ABM Treaty entered into force on October 3, 1972, and thus the third 5-year review was required to be conducted by the SALT I Standing Consultative Commission [SCC] beginning on October 3, 1987.

The previous two 5-year reviews, in 1977 and 1982, both started only a month after the 5-year anniversary date of entry into force of the ABM Treaty.

In 1977, the first 5-year review began on November 4, 1977, and resulted in a public communique on November 21, 1977. In 1982, the second 5-year review began on November 9, 1982, and resulted in a public communique on December 15, 1982.

The U.S. State Department, however, has decided to delay indefinitely this third 5-year SCC review. The delay would appear to violate the treaty. There is no good reason for the United States to delay the third 5-year review.

But this third required SCC review of the treaty would be the first 5-year review to occur since President Reagan initially reported the Soviet Krasnoyarsk radar ABM Treaty violation and other Soviet SALT violations to Congress on January 23, 1984. There have now been seven Presidential reports to Congress on Soviet SALT violations, and the Krasnoyarsk radar has gone from an "almost certain" violation to be "confirmed and conclusive violation." Moreover, the entire Congress has voted overwhelmingly several times to confirm the President's judgment that the Krasnoyarsk radar is a clearcut violation of the ABM Treaty.

A violation that is serious, "defeats the object and purpose" of the treaty, and is militarily significant and dangerous enough to allow one side to abrogate the treaty, must be regarded a "material breach." The Krasnoyarsk radar must therefore be regarded as a "material breach" of the ABM Treaty.

The administration should use this review to inform the Russians that both the Senate and the House of Representatives, the whole Congress, has now voted overwhelmingly to confirm the original 1984 Presidential finding that Krasnoyarsk is a clear, conclusive violation of the Treaty. The House vote on May 7, 1987 was unanimous, 418 to 0. The Senate votes were both over 90 in favor of the finding confirming that Krasnoyarsk was a clear violation, and an obstacle to new arms treaties.

A new finding has just been made within the administration strongly confirming several new and serious Soviet violations of the ABM Treaty. These new Soviet ABM violations include the Gomel Flat Twin/Pawn Shop radars, and they are as conclusive and as clearcut a violation as Krasnoyarsk. The other new development is that the SH-11 is an ABM interceptor using "Other Physical Principles," and therefore it violates the ABM Treaty. As noted, the Soviets have even admitted that the SH-11 ABM interceptor uses "OPP," and that it is deployed. The third new ABM Treaty violation is several more bodies of evidence that the Soviets have probably finally begun their long expected nationwide ABM breakout deployment.

The Soviet Flat Twin/Pawn Shop ABM radars at Gomel are also clear violations. Thus both the Krasnoyarsk radar and the Gomel ABM radars have to be regarded as "material breaches" of the ABM Treaty.

In addition, there are two bodies of unclassified evidence, which is discussed above, that the 10 Soviet LPAR's are each ABM battle management radars, and as such they comprise the prohibited base for an illegal nationwide ABM defense.

In fact, as noted, on September 12, 1987, President Reagan himself argued publicly that because of these new Soviet violations of the ABM Treaty, "we should look realistically" at whether the United States should withdraw from the treaty. President Reagan added that the new Soviet ABM violations make the Soviets "much more prepared to take advantage" of withdrawal than we are.

But the State Department has postponed indefinitely the third required SCC review of the ABM Treaty. The third 5-year review should have begun no later than early November 1987, but now in mid-1988, over 7 months have gone by with no review even initiated. Why has no third 5-year review been initiated?

The State Department knows full well that a public American communique has been released after both the past two ABM Treaty 5-year reviews begun on November 4, 1977 and on November 9, 1982. The public communiques were issued on November 21, 1977, and December 15, 1982, respectively, for the first and second 5-year reviews. Such a public American communique would clearly also be required after the third 5 year review.

But such a third communique would be required to directly and publicly mention the ten Presidentially confirmed Soviet ABM Treaty violations, including the Krasnoyarsk and Gomel radars, and also the other five additional new probable ABM Treaty break out violations.

There are three American options regarding the troublesome Krasnoyarsk and Gomel radars. The United States must confront the Soviets with the conclusive Krasnoyarsk and Gomel radar violations, and the

United States must declare the Krasnoyarsk and Gomel radars to be "material breaches" of the ABM Treaty. But the United States can only give notice to abrogate the ABM Treaty, decide to take a "proportionate response" to the Soviet Krasnoyarsk-Gomel violations, or do nothing, thereby condoning the Soviet violations. None of these three options are attractive to the administration, and each has certain perceived disadvantages for the United States. Thus the United States is doing nothing about the illegal Soviet Krasnoyarsk-Gomel radars.

But the United States will eventually have to confront the Soviets on these ABM Treaty violation issues directly and in public, even though this could severely complicate the ongoing INF Treaty ratification process and the START negotiations.

The unprecedented State Department decision to delay indefinitely the third 5-year review of the ABM Treaty thus suggests that the detentists of the State Department are reluctant to confront the Soviets on Krasnoyarsk, Gomel, and all the other new Soviet ABM violations. But the treaty is still the law of the land. The review is required by the terms of the treaty itself, and the review is required to begin on the 15th anniversary of the treaty's entry into force. Further, the results of the review must be reported to Congress and made public.

Therefore, this U.S.-initiated failure to review the ABM Treaty may be regarded as a U.S.-initiated violation of the ABM Treaty.

The State Department is thus facing the dilemma of being required to confirm new Soviet ABM Treaty violations as clearcut as Krasnoyarsk and Gomel and discuss them publicly with the Soviets, just after the President has signed the INF Treaty at the December 7, 1987, Pearl Harbor summit. Moreover, the State Department is reluctant to do anything to disrupt the ongoing START negotiations. The State Department would apparently rather appease the Soviet Union than defend American national security.

Clearly, this is why the State Department believes that, as one diplomat stated privately, "this is not the time to discuss ABM compliance with the Soviets." But while this delay of the required review may complicate the ongoing INF ratification process and the negotiations for a START Treaty, it is imperative that the law be respected and obeyed—and that every precaution be taken to protect the American people and their liberties.

Why should the United States itself initiate a violation of the ABM Treaty, in order to cover-up and appease 10 Presidentially confirmed Soviet violations and five brand new Soviet breakout violations of this treaty?

Three things need to be done. First, the third required ABM Treaty review with the Soviets is already over 7 months late. This required review must be initiated immediately. Second, the Soviets should be required to dismantle their Krasnoyarsk radar violation before the United States will ratify the proposed INF Treaty. Third, the President should report to the Congress the results of the third 5 year review before his late-May 1988 Moscow summit. If the President were to participate in a second summit without conducting the required third 5 year review, it would again appear that he was condoning and appeasing Soviet ABM Treaty violations. It would also appear that the State Department, by promoting further summit meetings to sign a START Treaty, is defying the expressed will of the Senate, which voted overwhelmingly that the Krasnoyarsk radar is "an important obstacle" to Senate advice and consent to any new arms control treaty such as the proposed INF Treaty.

Presidential warnings that the expanding pattern of Soviet violations of all existing arms control treaties is dangerous to American national security must be heeded. President Reagan did discuss the Soviet SALT violations with Mr. Gorbachev at both of his previous summits. And on March 10, 1987, President Reagan reported to Congress that Soviet correction of all their existing SALT violations was an "essential prerequisite" for him to sign any new arms control treaty.

But the pattern of Soviet violations continued to expand, according to President Reagan's report to Congress on Soviet SALT violations of December 1, 1987. None of the Soviet violations were corrected, according to the President. The President thus seemed to condone the expanding pattern of Soviet SALT violations when he signed the INF Treaty. The President's INF Treaty signing in the context of an expanding pattern of ever more serious Soviet SALT violations could be interpreted as an act of appeasement.

Some Senators wonder if it therefore was unwise for the President to sign an INF Treaty and ask the Senate to give its advice and consent to its ratification before each of the confirmed and new Soviet violations of arms control treaties are fully reversed and corrected. In signing any new arms control treaty with the Soviets before full compliance with existing arms treaties is restored, the President of the United States could appear to condone, forget about, and appease past violations. The Senate should consider very carefully the implications of voting its advice and consent for the President to ratify any proposed new arms treaty, such as INF or START, before the Soviets have corrected all their violations of existing treaties. Such a Senate vote could likewise appear to be appeasement.

The Chief of the Soviet General Staff Main Operations Directorate reportedly told a high ranking American official visiting Moscow recently that the Soviet Union intended to continue to ignore United States concerns and feeble protests over the ever expanding pattern of Soviet SALT violations. The general's statement can be seen as another example of Soviet nuclear blackmail.

For this reason, the Senate voted on February 17, 1987 overwhelmingly—93 to 2—that "the Soviet violations of existing" treaties was "an important obstacle to the achievement of acceptable" new arms treaties with the Soviets. The required October 3, 1987 ABM Treaty review already 7 months late may be the last opportunity for the Soviets to come into compliance with existing arms control treaties. The review may also be the Senate's last chance to avoid voting for appeasement.

AMERICAN WITHDRAWAL FROM THE ABM TREATY?

Last Fall the Senate unanimously passed a Helms' amendment to the State Department authorization bill, H.R. 1777, requiring a report on United States withdrawal from the ABM Treaty. It was simple and straight forward. It merely requires the president to report on whether United States supreme national security interests have been jeopardized by the failure to achieve permanent constraints on offensive weapons, the ongoing Soviet strategic offensive and defensive buildups, and whether the United States should therefore, withdraw from the ABM Treaty. Such a report would be only logical and reasonable. The President has already done most of what is required.

Here is what the Helms' amendment said:

SEC. 568. Report on Soviet Violations of ABM Treaty. Within thirty days of the enactment of this section, the President shall report to Congress (1) whether Soviet violations of the ABM Treaty and the complete failure after the ratification of such treaty to reduce or limit the increase of Soviet offensive intercontinental nuclear weapons systems jeopardize the supreme interest of the United States and (2) whether the United States should accordingly withdraw from such treaty.

The disposition of this amendment in the conference report on the Foreign Relations Authorization Act—House report No. 100-475—provided as follows:

Statement of Managers—The conference substitute deletes the Senate provision on the failure to achieve permanent constraints on Soviet strategic offensive forces which could threaten the survivability of U.S. strategic offensive forces, and U.S. intentions regarding possible withdrawal from the ABM Treaty. The Senate conferees expect that the President will address the

issues raised by the Senate provision in the context of the annual report required under Section 52 of the Arms Control and Disarmament Act, as amended.

The Helms' amendment was thus incorporated into the section 52 Pell amendment report, which was due on January 31, 1988. The Pell amendment report should have addressed the question of whether United States supreme interests are jeopardized by Soviet nationwide ABM defense breakout. Not only was it late, having been delivered in March 1988, but totally ignored the statement of managers on the required Helms amendment report. There was no discussion whatsoever of the issues raised by the Helms amendment.

In order to understand the full significance of Soviet nationwide ABM defense breakout, the Senate needs to be reminded of certain basic facts about arms control and its history.

First, on May 9, 1972, the United States in an official statement to Congress announced its intentions on withdrawing from the SALT I ABM Treaty as follows:

The United States (SALT I) Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces . . . If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, United States supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Second, 15 years after the United States made the policy declaration of May 9, 1972, the United States has still not yet achieved the objective of "an agreement providing for more complete strategic offensive arms limitations."

Third, President Reagan reported to Congress on June 3, 1986, that there was a "growing strategic imbalance between the United States and the U.S.S.R." President Reagan added that the Soviet Union now has a "first strike capability" which was "seriously eroding the stability of the balance," and which has resulted in a "loss in the survivability of United States strategic forces."

Fourth, I would point out that article XV of the SALT I ABM Treaty, which was ratified on October 3, 1972, states:

Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests.

Fifth, President Reagan reported further to Congress that the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM battle management radar "directly violates" three provisions of the SALT I ABM Treaty. Both the Senate and the House of Representatives have now each voted unanimously that the Krasnoyarsk radar is a violation of the SALT I ABM Treaty.

Sixth, President Reagan has also reported further to Congress that it is highly probable that the Soviet Union has conducted multiple tests of surface-to-air missile interceptors and radars in a prohibited ABM mode, and has developed a prohibited mobile ABM system. The President has also reported to Congress that "all Soviet large phased array radars—have the inherent capability—of contributing to ABM battle management, and LPAR's have always been considered the long lead time elements of a possible territorial defense." President Reagan himself added that the Soviet Union "may be developing a nationwide ABM defense" in direct contravention of article I of the ABM Treaty, the most important provision of the treaty.

The failure to achieve permanent constraints on offensive weapons and the Soviet strategic offensive and defensive buildups have placed the supreme interests of the United States in jeopardy. The President is required to report to the Senate on an urgent basis whether the United States should withdraw from the SALT I ABM Treaty.

The Helms amendment, as incorporated into the Pell amendment, merely provides that the President of the United States should make such a report. The required report is long overdue.

There was also another Helms' amendment recently introduced and withdrawn condemning the United States violation of the ABM Treaty, by failing to conduct the third 5-year review. Continued failure by the State Department to conduct the required third 5-year review of the ABM Treaty may make it necessary to offer this amendment again.

THE INF TREATY REQUIRES CONVENTIONAL PARITY TO PRESERVE DETERRENCE

The United States and NATO must maintain a strong nuclear deterrent, in order to preserve deterrence against Soviet-Warsaw Pact conventional force advantages. We need our nuclear deterrent, unless we can achieve negotiated parity in NATO-Warsaw Pact conventional forces. Because the proposed INF Treaty removes the main United States nuclear deterrent, it can only be acceptable if accompanied by negotiated Soviet/Warsaw Pact reductions to parity in conventional forces. That is why I would support an amendment to the INF Treaty calling for negotiated reductions to conventional parity.

DETERRING SOVIET AND WARSAW PACT CONVENTIONAL SUPERIORITY

In conventional forces, the Soviets and the Warsaw Pact have an overall conventional advantage over NATO of at least 3 to 1. The specific comparisons, as computed from unclassified Defense Department estimates, are as follows:

1. Soviet/Warsaw Pact 2 to 1 advantage in Main Battle Tanks;
2. Soviet/Warsaw Pact 2.3 to 1 advantage in Heavy Artillery;
3. Soviet/Warsaw Pact 1.3 to 1 advantage in Armored Personnel Carriers;
4. Soviet/Warsaw Pact 1.2 to 1 advantage in Tactical Aircraft;
5. Soviet/Warsaw Pact 2.4 to 1 advantage in Interceptor Aircraft;
6. Soviet/Warsaw Pact 6 to 1 advantage in Intermediate Range Bombers;
7. Soviet/Warsaw Pact 25 to 1 advantage in Chemical Decontamination Equipment; and
8. Soviet/Warsaw Pact advantage of 700,000 tons to 0 in Modern Deliverable Chemical Munitions.

The Pershing II nuclear deterrence was the shield that prevented these conventional force imbalances from becoming decisive. Instead of massive spending for more conventional arms to try to counterbalance these huge Soviet/Warsaw Pact advantages, the United States and NATO deployed the Pershing II and GLCM INF in late 1983.

Soviet Military Power 1987 states:

In the Soview view, their preponderance of power in conventional forces means the West must rely to a significant extent on nuclear weapons to deter a major conventional attack.

This means that if the INF Treaty deprives us of our nuclear deterrent, we can only deter aggression if NATO and Warsaw Pact conventional forces are equal.

THE U.S. NUCLEAR UMBRELLA IS NOT CREDIBLE

As noted, Dr. Henry Kissinger correctly told a NATO audience in 1979 that:

The United States throughout the postwar period has been more dependent on its strategic forces than the Soviet Union has been on its own.

This U.S. strategic force dependence is called the U.S. "nuclear umbrella." But in the overall strategic nuclear intercontinental comparison, the Soviets have about 3,000 more nuclear warheads than the United States, counting the military effects of their many SALT violations. More significantly, the Soviets have about a 6- or even 10-to-1 advantage over the United States in ICBM capability, giving them an offensive first strike capability. The Soviets also have an emerging nationwide ABM capability prohibited by the ABM Treaty. Thus in the overall strategic nuclear intercontinental comparison, the balance has shifted strongly against the United States, making the so-called United States "nuclear umbrella" strategy to deter Soviet/Warsaw Pact aggression against NATO a noncredible strategy.

The Pershing II is the principal United States deterrent weapon, because only this weapon has the speed, accuracy, and yield to attack targets of

great value to the Soviet leadership—themselves—in the Kremlin and the leadership underground command bunkers near Moscow. By eliminating the Pershing II, the INF Treaty makes impossible United States reliance on nuclear weapons as a deterrent to Soviet conventional force supremacy. Hence we need negotiated conventional force parity if the INF Treaty is going to be acceptable.

PERSHING ALSO DETERS SOVIET CBW THREAT

President Reagan stated to Congress in March, 1987, that:

"Neither NATO retaliatory nor defensive programs can begin to match the Soviet effort . . . in the production, transfer, and use of chemical and toxic substances for hostile purposes . . . and in maintaining an offensive biological warfare program and capability.

The Soviets will develop genetic engineering weapons as an asymmetrical response to the United States strategic defense initiative, a Soviet official stated recently.

The principal NATO deterrent to Soviet chemical-biological-warfare capabilities is also the U.S. nuclear capability in NATO—especially the Pershing II. As noted, the Pershing II is the principal U.S. deterrent weapon in NATO, but this weapon will be eliminated by the INF Treaty. The Pershing II is the only system that will meet the NATO deterrent guidelines, by being able to strike key targets quickly and accurately deep inside the Soviet Union. What is the effect on the credibility of deterrence of the required removal under the INF Treaty of the Pershing II's if no remaining systems can replace their capability? By eliminating the Pershing II, the INF Treaty also cripples the NATO ability to deter Soviet CBW capabilities.

SOVIET/WARSAW PACT CONVENTIONAL SUPERIORITY CAN NOT BE DETERRED WITHOUT PERSHING II

In NATO exercises and wargames, SACEUR has to seek nuclear release authority within 2 weeks after a Soviet/Warsaw Pact attack on NATO. What nuclear forces would SACEUR have to deter Soviet/Warsaw Pact conventional aggression after the INF Treaty wipes out our Pershing II's and GLCM INF forces?

Here is an unclassified listing of NATO nuclear warheads remaining after the Montebello decision to reduce NATO nuclear warheads from 7,000 to 4,600, and after the INF Treaty requiring the further reduction to 4,000 warheads:

1. Nuclear artillery rounds (source—IISS) about 2,100; 2. Lance missiles—about 80;3. Land and sea mines—probably about 1,000; 4. Dual-capable aircraft about 620; 5. F-111 fighter-bombers about 200; Total, about 4,000.

But none of the above systems have the range, swiftness, accuracy, and megatonnage of the key NATO nuclear deterrent system, the Pershing II. Only the F-111 could possibly substitute for the Pershing II to strike key command, control, and leadership targets deep inside the Soviet Union, but it has a radius of only 300 miles unrefueled, and 1,000 miles refueled. Moreover, Soviet-Warsaw Pact air defense capability has increased greatly since the NATO "dual track" decision of 1979, when the decision was made to supplement the F-111's with the Pershing II's. Under the INF Treaty, what does NATO have that can go past the 300-miles range, unless we can refuel F-111's in conflict, and it can penetrate?

Are these 4,000 NATO warheads left, most of which have either no range, or very short range, a credible deterrent to the Soviets? Was the Montebello reduction of about 2,400 warheads reciprocated by the Soviets? Did it represent unilateral reduction, and already contribute to denuclearization of NATO?

It is clear that the Pershing II is the only system that will meet the NATO deterrent guidelines, by being able to strike key targets quickly and accurately deep inside the Soviet Union. What is the effect on the credibility of deterence of the removal of the Pershing II's, when no remaining system can replace their capability?

There are grave dangers in relying on 400 SLBM's dedicated to SACEUR for NATO deterrence of the Warsaw Pact. The use of strategic intercontinental weapons for theater deterrence purposes is extremely dangerous for the United States, and not credible to the Soviets. Such reliance also dangerously increases the already severe United States strategic intercontinental inferiority to the Soviets.

INF TREATY MUST BE ACCOMPANIED BY CONVENTIONAL PARITY

In sum, Germany, both East and West, could become a conventional and nuclear "free fire zone" under the INF Treaty.

If the Pershing II is the main NATO deterrent weapon, the INF Treaty by removing this weapon takes away the very basis of deterrence. The INF Treaty puts NATO on a slippery slope leading toward the denuclearization of Western Europe, which has been a fundamental objective of Soviet foreign policy since 1945. The denuclearization of Western Europe would make the region safe for Soviet conventional aggression, and result in the neutralization of Western Europe due to the threat of Warsaw Pact conventional might. Under the INF Treaty, NATO sacrifices the credibility of its deterrent.

The only way that the INF Treaty can be made acceptable and deterrence maintained is for it to be accompanied by negotiations requiring NATO-Warsaw Pact conventional force parity.

The PRESIDING OFFICER (Mr. ADAMS). The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 2083) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, is the distinguished Senator from Georgia in position to proceed with the Ethiopian amendment at this time?

Mr. NUNN. Yes.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2084

(Purpose: To urge economic sanctions against the Communist Regime in power in Ethiopia)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

Mr. HELMS. Mr. President, in this case, I am going to ask the clerk to proceed to read the amendment even though it is fairly long.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2084.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new section:

"Sec. . (a) Congress:

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief ve-

hicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (via direct representations to the Government of Ethiopia, certain rebel groups, and via sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in the north, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Union of Soviet Socialist Republics in order that the peaceful resolution of the crisis in northern Ehtiopia becomes a high Soviet priority and that the approach of the Union of Soviet Socialist Republics is consistent with that of the West.

(b) Sanctions.

(1) *Sanctions urged under certain conditions.* The President is strongly urged, and is hereby authorized (notwithstanding any other provision of law), to impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to subparagraphs (2) and (3) of this subsection) if, at any time after the date of enactment of this section, the Government of Ethiopia engages in any of the following outrages:

(i) Forced resettlement.

(ii) Forced confinement in any resettlement camp.

(iii) Diversion of international relief to the military.

(iv) Denial of international relief to any persons at risk because of famine.

(v) Seizure of international relief assets provided by the United States.

(vi) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) *Sanctions to be included.* Sanctions imposed pursuant to subparagraph (1) shall include sanctions which substantially affect the major exports of Ethiopia.

(3) *Export sanctions.* If a sanction imposed pursuant to subparagraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(4) *Reports to Congress.* Not later than the end of the 15-day period beginning on the date of the enactment of this section and at the end of each 60-day period thereafter, the President shall submit to the Congress a report on whether, during that period, the Government of Ethiopia engaged in any conduct described in subparagraph (1 of this subsection). Each such report shall describe the response of the United States to such conduct.

(5) *Regulation authority.* The President shall issue such regulations, licenses, and orders as are necessary to implement any sanctions imposed under this subsection.

Mr. HELMS. Mr. President, I wanted the clerk to read a portion of the amendment to indicate the strong feeling of the Senate in adopting this amendment because dismay and alarm over deplorable and deteriorating conditions in Ethiopia have been expressed repeatedly by Senators on both sides of the aisle. But these words thus far have produced no result.

Let me give you some examples of what is going on.

In the past 2 or 3 weeks, the Ethiopian Government warplanes were bombing deliberately a food relief station in northern Ethiopia. According to the report by the Associated Press, warplanes struck the camp about 30 minutes after monthly food allotments had been distributed to 5,000 to 8,000 peope in rebel-held territory.

One of the eye witnesses of the bombing attack said the attack on the civilians was intentional. He said: "They flew over and looked at them and came back and hit them."

The bombs killed about 50 people, according to the AP report, and most of them were children who were playing in a kindergarten.

This amendment, Mr. President, would make absolutely clear where the United States stands by condemning the brutal regime of Colonel Mengistu and by supporting the imposition of sanctions on that regime.

This proposal would be a strong message from Congress not only to the Ethiopian Government, but to our own administration. For far too long, the 40 million people of Ethiopia have taken a back seat to other priorities of foreign policy. There have only been a handful of people within the administration who have really fought to get policy attention focused on Ethiopia.

We continue to react and react and talk and talk and talk and write letters, but to no avail; the children are still being killed, countless thousands of people are starving to death because of this brutal regime. I think it is time that we tighten the screws. That is exactly the purpose of this amendment.

Just a few weeks ago, as a matter of fact, we finally heard the President of the United States place Ethiopia in the same list of priorities as arms control and peace in Nicaragua. In a major foreign policy speech before the World Affairs Council, President Reagan demanded that the Soviets deal strongly with their puppet regime in Ethiopia. Here is what Ronald Reagan said: "They"—meaning the Soviets—"can stop this disaster before it happens." I will say to the President, so can we in the United States.

There is a brutal dictator in Ethiopia who has chosen to obliterate his opposition by starving them to death. He takes no prisoners. His latest tactic is to kill countless thousands of innocent men and women and children and do it within a matter of weeks.

I feel strongly about this, and I think other Senators do as well.

When he took power through a barrel of a gun over a decade ago, Mengistu took the most basic of freedoms from his people. Right to free speech, right of free press, right to associate * * * you name the freedom and it does not exist in Ethiopia. And now, he is deliberately threatening the lives of 2-3 million people * * * by taking away food.

Ethiopia is a country whose people have suffered enough at the hands of an illegitimate brutal dictator. The plight of these people today and tomorrow has to take center court. We must persevere in keeping the spotlight on that country until its peoples are free from the murderous hands of the Dictator Mengistu.

Some have asked for pressure from the United Nations. But frankly, that option is bearing—who can be surprised—no fruit. The most that the United Nations has been able to accomplish is to allow a handful of UN personnel back into the area. Further discussions with the government have been put on hold until the end of May. The United Nations is once again demonstrating its ineffectiveness.

We have asked for the intervention of the much lionized Mikhail Gorbachev in stopping the actions of this, his client state. With Mengistu's objectives programmed by the 1,700 Soviet advisers in Ethiopia, this effort to get Gorbachev to intervene is a waste of breath. And certainly, the Soviets have some well-documented experience in using famine as a means to wipe out opposition * * * as the Ukranians know it was the invention of the much-lionized Nikita Khrushchev.

This is the time for Congress to speak out. There are helpless children in Ethiopia that are going to die within weeks * * * indeed, are dying now. Our food is there, yet the Communist government refuses to permit the food to be given to the hungry.

The amendment I am offering is identical to a provision reported, unanimously by voice vote from the House Committee on Foreign Affairs on May 3.

First, it outlines some of the more criminal actions that the Ethiopian Government has undertaken, especially in recent weeks.

We could fill volumes detailing the inhumane activities that the Mengistu government has undertaken * * * Such as its villagization scheme which has already displaced over 5 million people * * * or its holding of many thousands of political prisoners, or its use of torture, or forced conscription into the army of 12 or 13 year old boys.

The amendment speaks to the current emergency situation which resulted when the Ethiopian Government forcibly expelled all foreign relief workers from the north putting at immediate risk of starvation some 2 to 3 million people.

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In the amendment, Congress condemns the Government of Ethiopia for these actions and urges the government to reverse that decision. We want the government to allow our relief workers back into the area even at their own risk.

We also urge the President to keep this issue at the highest level of priority in his discussion with the Russians, because it is Gorbachev's advisers who sit in Addis Ababa and direct Mengistu.

In the amendment, Congress urges also the President to impose sanctions if the Government of Ethiopia undertakes any of the following actions:

First, forced resettlement;

Second, forced confinement of anyone already moved to a resettlement camp;

Third, diversion of food relief to the military;

Fourth, denial of food relief to any person at risk of famine;

Fifth, seizure of U.S. food or relief equipment; or

Sixth, prohibiting the monitoring of food relief.

If the government engages in any one of these actions, the amendment authorizes the use of sanctions.

It does not mandate sanctions. I feel that it should. It does not mandate sanctions so that it will conform with the actions being taken in the House.

Mr. President, I ask unanimous consent to insert into the RECORD a New York Times article, dated April 29, 1988, titled, "Ethiopia's Curbs on Aid to Hungry Imperial 2 Million," the New York Times editorial on May 7, 1988 "Live Aid in Ethiopia, 1988 Style," a Washington Post story titled "U.S. Say Ethiopia Relief Shutdown Causing 'Catastrophe' " dated April 14, 1988, an article from the Christian Science Monitor, dated Friday, April 15, 1988, titled "Relief groups say their ouster may spur Ethiopia rights abuses," and an article from the Washington Times of today, titled simply "Famine."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 29, 1988]

ETHIOPIA'S CURBS ON AID TO HUNGRY IMPERIL 2 MILLION

(By Sheila Rule)

ADDIS ABABA, ETHIOPIA, April 28.—The Government of Ethiopia has so severely restricted emergency relief operations in the country's north, a region ravaged by both drought and war, that as many as two million people are out of reach of any known system of food distribution, aid officials and Western diplomats say.

Because of the restrictions, these officials say, hundreds of thousands of tons of donated food are piling up at ports and may never reach those in need. Agricultural seeds, too, are not being distributed. This means that farmers who must soon plant crops cannot do so, which could lead to even greater problems next year.

Nationwide, more than 7 million of Ethiopia's 47 million people remain in need of emergency relief, according to workers for humanitarian aid groups, who say the worst affected provinces are Eritrea and Tigre, in the north.

CROP FAILURES REPORTED

They say the number could rise because of varying degrees of crop failure in the current harvest in several other provinces, including Wallo, Sidamo, Harar, Arsi and northern Shoa.

The good news is that it has been raining this month in much of the country, as farmers prepare to plant sorghum and corn for the next harvest, and that relief operations outside the north are continuing.

International relief workers here express fears that huge waves of hungry Ethiopians from the north, where crop failures last year were severe, may soon move to urban centers or to the neighboring Sudan in search of food. Contingency plans are being drawn up to establish the types of feeding camps in which hundreds of thousands of people died of disease in the country's last such calamity three years ago.

"THEY COULD BE MOVING NOW"

"In 1985, starving people just showed up all of a sudden," one Western diplomat said. "They could be moving now, and we just don't know it because we are not there."

Relief workers say the Government of President Mengistu Haile Mariam has given priority to military aims over the need to feed the hungry in the northern provinces of Eritrea and Tigre. The Government ordered most foreign relief workers to leave the north two weeks ago, saying it was acting for their safety, although the aid workers have said they did not feel themselves in danger.

The authorities are allowing food distribution only in the ever-smaller areas of Eritrea and Tigre that they control—some estimates are that the Government controls as little as 10 percent of the territory—as separatist rebels in the provinces claim major victories in their long-running conflicts. Meanwhile, as much as 240,000 tons of emergency food aid at the port of Assab alone, in addition to other relief supplies, is going undistributed.

The entire relief operation has been left to the Government's Relief and Rehabilitation Commission and a Christian consortium closely involved with Ethiopian organizations. But Western relief officials say these groups cannot adequately handle the situation, partly because the Government commission cannot travel in the areas of conflict.

The authorities have allowed four United Nations workers to return to the north, but their presence is expected to have no real effect on increasing food distribution; the relief workers ordered out of the provinces numbered 40 to 60.

REGIME TIES AID TO VICTORY

The Government has said full relief operations in the region cannot resume until the rebel forces are defeated. This has led humanitarian agencies to conclude that the Government does not want witnesses as its troops try to wipe out the rebels by wiping out the civilians who support them.

"We now have a war disaster imposed on a drought disaster, said James R. Cheek, chargé d'affaires of the United States Embassy here. "There can't be anything worse. We planned that there would be 25,000 tons of food required in Eritrea and 25,000 in Tigre each month. In Tigre, there is now 5,000 tons a month, and we're not sure who that food is going to."

By the aid officials' most optimistic estimates, only about 300,000 people in Tigre and one million in Eritrea, out of a total population of 3.5 million in the two provinces, can be fed by the Government and the Christian groups.

Patrick C. Johns, country representive of Catholic Relief Services, which is part of the Christian consortium said the true number of people outside the distribution system could be between one million and 1.5 million.

More than 250 Ethiopians involved in his organization have been allowed to stay in the north and have been assisting as many as 900,000 people in the two provinces, he said. But because government trucks have been diverted to the war effort and roads are not kept open long enough, transportation of food remains a serious problem.

"We have confidence in the church structure," Mr. Johns said. "Our staff in Eritrea is made up of Eritreans, and they are up there trying to help their people. If the military tried to steal our food, they would scream murder."

The New York-basked Eritrean Relief Committee—its partner Eritrean Relief Association is the only relief agency working in rebel-held territory and channels food aid from the Sudan to Eritrea—issued an appeal this month to the United States and humanitarian agencies to take part in the cross-border activities by donating food and trucks. But the Ethiopian Government has warned that such operations would "be met with an appropriate response."

Relief officials here say increased cross-border operations are unfeasible because of bad or nonexistent roads and bridges, among other logistical problems.

The United States has raised the possibility that its food supplies to Ethiopia might be suspended if shipments could not be guaranteed to reach those in need. President Reagan has denounced the Government for using food as a weapon to defeat the rebellion.

U.S. REQUIRES ACCOUNTING

Like other donors, the United States requires that any food it gives must be accounted for on an independent and detailed basis to make sure it is not going to the army or being sold but is distributed to those in need. The Relief and Rehabilitation Commission's definition of need would not necessarily exclude hungry soldiers, some aid workers said.

The authorities have told the International Committee of the Red Cross to turn over its operations, including warehouses, trucks and food, to the Ethiopian Red Cross Society, which is viewed as a Government organization. But relief officials at various international agencies suggest that the local body will be dictated to by the Government and thus will be unable to respect the independence and neutrality professed by the international group.

The International Committee requires that a mimimal presence of its delegates be in the north to monitor distribution. It is still negotiating with the local Red Cross to find a solution, but for now, its supplies in the north are under lock and key.

"Every day that is lost means the number of people who need food is probably increasing," a relief worker said. "This is at a time when nutritional surveys show that 60 percent of the children in the northern regions are suffering from moderate malnutrition,

while 20 percent are afflicted with severe malnutrition. This is a tragedy that could have been avoided. Is it the fault of the rebels or the Government? We believe it is the fault of both."

[From the New York Times, May 7, 1988]

LIVE AID IN ETHIOPIA, 1988 STYLE

Two million lives are now at imminent risk from famine in Ethiopia, twice the number who died in the 1984–85 calamity. Then, the world couldn't send emergency help fast enough. This time the problem is different. It's not the lack of food, but the regime's refusal to let it reach the famished.

Food, 240,000 tons of it, has piled up undistributed just at the one port of Assab. But foreign relief teams have been barred from stricken areas, because of the gains made in battle by two rebel movements. To spite his foes, President Mengistu seems prepared to starve his own people, out of the world's sight. Pressure, both from his African neighbors and his Soviet patron, is not the famine victims' best remaining hope.

As it happens, a meeting of the Organization of African Unity convenes in Ethiopia's capital, Addis Ababa, this month. That gives African leaders a shot at trying to turn their host from his cruel course. And the Soviet Union, Ethiopia's chief weapons supplier, could also use its influence, preferably in conjunction with Western donor countries. Moscow has now for the first time pledged a substantial 250,000 tons of food, and has begun talks with Washington that could result in sending the right message to General Mengistu.

The world has learned a good deal about Ethiopia since the days of the "Live Aid" and "We Are the World" concerts. The Ethiopian who then directed humanitarian relief has since defected and exposed failed agricultural policies. Defensively, the regime answers that it has abandoned or modified its forced resettlement of peasants, and talks about using market incentives to increase output.

Mr. Mengistu, a warlord who calls himself a Marxist, asserts that his own relief commission has enough trucks to distribute food. But the Ethiopian agency does not operate in war zones, and in any case the U.S. and other donors require an accounting for food aid. Rebels have fired on food convoys, but relief workers say they will accept the risks.

What humanitarian agencies can't accept is turning their food over to General Mengistu for use as a political weapon. The Ethiopian regime understands this. Its ban on foreign relief organizations is, in effect, a death sentence on peoples trapped in the rebellious provinces of Eritrea and Tigre.

Opening blocked roads would be the most meaningful live aid for Ethiopia's hungry.

[From the Washington Post, Apr. 14, 1988]

U.S. SAYS ETHIOPIA RELIEF SHUTDOWN CAUSING "CATASTROPHE"

(By John M. Goshko)

The United States called the Ethiopian government-ordered shutdown of international relief operations in northern Ethiopia "a human catastrophe" that threatens more than 2 million people with starvation, and yesterday it urged Ethiopia's Marxist leaders to rescind their "callous decision."

The Ethiopian government last week ordered all foreign relief workers to leave the war-torn provinces of Tigre and Eritrea and told the United Nations and private western groups, such as the International Red Cross and Catholic Relief Services, to hand over their famine relief operations to Ethiopian agencies.

Both provinces have been sites of intense battles recently as rebel armies fighting Ethiopian leader Lt. Col. Mengistu Haile Mariam's rule have severely shaken his army's control of the northern regions.

"Over 2 million people are facing starvation," State Department spokesman Charles E. Redman said yesterday. "We deplore the decisions made by the government in Addis Ababa to neglect or sacrifice millions of its citizens in pursuit of military objectives.

"Assurances that the decision was made for the security of those involved, that the expulsion is 'temporary,' and that indigenous organizations can take up the slack ring hollow against the sheer magnitude of the disaster," he said.

"The world cannot stand idly by and allow innocent people to die. To avert this tragedy, the government's callous decision must be reconsidered. . . . Relief workers are willing to take the risk so that millions of Ethiopians might live. . . . It is incumbent upon both government and rebels to honor the sanctity of lives and to permit relief operations to go forward unimpeded," Redman said.

Saying that the United States "fully supports" U.N. Secretary General Javier Perez de Cuellar's efforts to resume these operations, Redman noted, "The food is available. The private voluntary organizations, the Red Cross, the U.N. staff are all there. . . . So there is transport there. There is food there. The problem is, at this stage, the government has blocked the pipeline."

Although it is among the chief suppliers of relief material to Ethiopia's victims of drought and civil war, the United States frequently has been at odds with the Mengistu government over its efforts to get the upper hand over the rebels by manipulating food distribution.

Redman said that U.S. aid this year amounts to about 250,000 metric tons of food. In dollar terms, he added, the aid amounts to $112 million, of which $95 million is for food. He said the other major donors are the Soviet Union, which has pledged 250,000 metric tons of food, and the European Community, whose total contribution is 116,000 metric tons.

[From the Christian Science Monitor, Apr. 15, 1988]

RELIEF GROUPS SAY THEIR OUSTER MAY SPUR ETHIOPIA RIGHTS ABUSES

(By Robert M. Press)

The possibility of widespread starvation and human rights violations in Ethiopia are twin concerns voiced by international relief agencies following Ethiopia's order for all foreign relief workers to leave the northern war zones.

Officials of the International Committee of the Red Cross (ICRC) and UNICEF are raising both issues and calling for a reversal of the expulsion order given last week.

Without the foreign presence in Eritrea and Tigre Provinces, these officials say, there is a greater chance of atrocities being committed during fighting.

"No one will be a witness to the way the war is conducted," says Leon de Riedmatten, the ICRC's deputy delegate general for Africa, based in Geneva.

"When governments refuse access to the outside world, I think something terribly, terribly wrong is going on," says M. Baquer Namazi, UNICEF's representative in Kenya.

Article 3 of the 1949 Geneva Conventions on armed conflict, which Ethiopia has signed, specifically names the ICRC as an "impartial humanitarian body," that may offer its services in observing the conduct of the war.

The last ICRC officials left northern Ethiopia, under government orders, yesterday. The government is now accusing the ICRC of aiding the rebels.

International pressure to get the government of Lt. Col. Mengistu Haile Mariam to reverse the order is mounting. A top envoy from the UN arrived Thursday in Addis Ababa, Ethiopia's capital, with the hope of getting the order reversed.

United States officials have been in touch with Soviet officials to try to assure food relief reaches an estimated 3 million needy people in Eritrea and Tigre, the two regions hardest hit by both drought and war.

In Addis Ababa, ICRC spokesman Vincent Bernard said his agency is needed in those areas to protect people.

Of the 3 million people at risk, more than 2 million are now in rebel-held areas. There is special concern for these people because all along the Ethiopian government has allowed relief food to be distributed only in government-held areas. Those areas have shrunk dramatically in recent weeks as a result of military advances by the Eritrean Peoples Liberation Front and the Tigrean Peoples Liberation Front.

Some relief food gets to rebel areas via Sudan, but rebel spokesman said, even before recent military gains, the amounts were far from sufficient.

So far, Eritreans and Tigreans have not migrated in mass to main towns for food like they did in 1984–85 during the last famine. And some crop surpluses are reported in parts of Tigre. But the ICRC's Bernard said the situation is serious now and could become "critical" within a month.

[From the Washington Times, May 16, 1988]

FAMINE—A HUNGRY NATION AT WAR WITH ITS OWN PEOPLE

(By Stephen Chapman)

Less than four years ago, the world watched in horror as a million Ethiopians starved to death. Brace yourself. Famine is once again stalking Ethiopia, and millions may die.

Americans will be surprised to learn that the villain is not a lack of food. Vast supplies, including a quarter of a million tons sent by the U.S. government, now sit in Ethiopian ports, waiting to be delivered to those in need. Blocking the way is the Ethiopian government, which uses starvation as a weapon in a monstrous war against its own people. An estimated 7 million are in mortal danger.

The head of the Soviet-backed regime in Addis Ababa, Gen. Mengistu Haile Mariam, faithfully models himself on Josef Stalin.

Like Stalin, he has carried out a merciless program of agricultural collectivism, killing untold numbers of uncooperative peasants in the process.

Like Stalin, he has also created mass famine by destroying the nation's ability to feed itself.

If you're looking for the worst government on earth, look no further. Gen. Mengistu has combined a murderous assault on human rights with an economic program that has made Ethiopia the world's poorest

nation. He has also prosecuted an endless war against secessionist rebels in two provinces, Eritrea and Tigre. Well, not quite endless: The rebellion in Eritrea began when John F. Kennedy was president.

In this conflict, hunger is just another means of war. The Ethiopian army, which has taken a beating lately, is getting ready for a major offensive—not just against the rebel forces but against the civilian population.

It recently expelled the foreign relief workers who had been distributing food and medicine in the contested areas. That way, it can commit its crimes without witnesses.

It also wants the foreign relief agencies to give their supplies and vehicles to the government. They have stoutly refused. The government, you see, isn't interested in taking over their humanitarian mission. What it wants is food and trucks to fuel and transport its army.

Food has other uses too, like coercing civilians into doing what the regime wants. What the regime wants is to uproot people from rebellious regions and move them across the country, depriving guerrilla forces of support. It is also forcing peasants into government-run villages, where they can be watched and controlled more easily.

Harvard anthropologist Jason Clay, who interviewed hundreds of victims for a book on the 1984-85 famine, found that Ethiopia's government systematically denied food to those who resisted being moved. Their choice was submit or perish.

Many did both. According to some witnesses, the hardships of resettlement killed more people than the famine. The disturbing truth is that the West's donations of food often harmed the very people they were supposed to help.

The forced transfer of large numbers of peasants is a key part of the regime's nationalization of agriculture.

Here and elsewhere, that has been an infallible recipe for disaster. Regions that once fed Ethiopia's cities can no longer feed themselves. Food production per capita has dropped by 7 percent since Gen. Mengistu gained power, just the opposite of what has happened in most of the world's poorest nations.

The nation's health has suffered as a result. Ethiopia's infant mortality has risen sharply. Life expectancy at birth is just 45 years. For comparison's sake, that's 12 years less than in India. To an Ethiopian peasant, the slums of Calcutta look like the land of plenty.

The government is a terrorist state, using its own citizens as hostages. It wants the West to avert the famine, permitting it to continue the policies that produced it. But the United States and other Western donors have refused to allow their food to be distributed except through private relief organizations, which can assure that it gets to the people who need it.

That's the only reasonable option: To turn the relief supplies over to the government would strengthen it, inviting future catasrophes. The United States should also be trying to get supplies from neighboring countries into rebel areas.

The Reagan administration has also backed the Soviets to intervene with their ally. Soviet General Secretary Mikhail Gorbachev claims to have abandoned Stalin's policies in his own country. It will be interesting to see if he rejects them elsewhere as well.

If Gen. Mengistu is determined to starve millions of his own peopole, there isn't much the West can do to stop him. But by refusing to be an accomplice to the crime, it may weaken his grip on power. If the regime survives, this famine won't be Ethiopia's last.

Mr. HELMS. I thank the Chair and I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I believe this amendment has the same operative clause as the joint resolution recently passed by the House Foreign Affairs Committee. I think we all support the thrust of this amendment. There is absolutely no argument about it. But speaking to the ranking member of the Foreign Relations Committee, I wonder if as a matter of committee procedure he would not prefer to see this work its normal way and come to the committee after it has passed the House and come to the Senate and been referred to it.

Mr. HELMS. If the Senator will yield, I intend to go both routes because I want something done on it. I know I will have the full cooperation of the distinguished chairman of the Foreign Relations Committee, but I want at every possible opportunity to raise this question, which is why I have offered it on this piece of legislation.

Mr. PELL. But the Senator would prefer not to pull this down and wait until we get it in the normal course of events?

Mr. HELMS. I say, most respectfully, no, thank you.

Mr. PELL. In that case, I think it is a good amendment with a good objective and I will be bound to support it.

Mr. HELMS. I thank the distinguished chairman.

Mr. NUNN. Mr. President, this amendment, as I understand it, condemns the Government of Ethiopia for its refusal to permit relief food to reach the rebels in northern Ethiopia, and also urges rebel groups to stop attacks on relief vehicles; it urges the President to "focus world pressure" on both the government and rebels "to reach a pragmatic, enduring political settlement," and urges the President to engage in direct discussions with the Soviet Union on Ethiopia.

The President is "strongly urged and is hereby authorized" to impose economic sanctions on the Government of Ethiopia if they continue policies such as forced resettlement and interference with international relief effort. Finally, the President is required to make reports to Congress every 60 days on Ethiopia's conduct on "the response of the United States."

It is my understanding, as the chairman of the Foreign Relations Committee has already stated, that this language is identical to language recently reported out by the House Foreign Affairs Committee as far as its operative language. We all known there is a terrible tragedy going on in Ethiopia right now and literally tens of thousands of innocent people are facing terrible conditions including starvation. We think that the Government of Ethiopia should be the subject of tremendous world opinion against their position in causing this kind of terrible hunger and terrible cruelty to their own people. So I urge that the Senate adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 2084) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2085

(Purpose: To prohibit the expenditure of taxpayer funds for the U.S.-Panama Combined Canal Defense Board or for assistance to the Panamanian Defense Force unless the President certifies that Soviet, Cuban, or Nicaraguan armed forces are not present in Panama or, if present, that such forces are not being assisted by the Panamanian Defense Force or that General Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices, and prohibited from designating his successor)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read a follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2085.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new section:

"SEC. . Notwithstanding any other provision of law or of this Act, none of the funds authorized or appropriated by this or any other Act shall be obligated or expended for any activities of the Combined Board established by Article IV of the Panama Canal Treaty of 1978 for mutual cooperation in

the defense of the Panama Canal or, directly or indirectly, for assistance to, or support of, the Panamanian Defense Force unless and until the President has certified to Congress 1) that no armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama; 2) that, if the armed forces of any such country are present in the Republic of Panama, the Panamanian Defense Force is neither providing assisance to, nor coordinating its activities with, such armed forces; or 3) that General Manuel Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.".

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, the increasing Cubanization of Panama is a growing reality that I think this Senate must face if the administration, particularly the Pentagon, will not. I do not speak for any other Senator, but I just cannot see how we could condone allowing the dictator Noriega in his desperation to stay in power to jeopardize United States interests in the Panama Canal.

To this date, I must sadly say the administration has not been willing to take a firm public stand against Noriega and the Cubanization of Panama, nor in my judgment to face up to the hard facts. Now, the Senate did adopt the D'Amato amendment requesting a public report on the extent of Soviet-Cuban military involvement in Panama. But the administration has ignored that Senate action, and Mr. Noriega, as anybody knows who has checked the news in the last 30 minutes, continues to be treated with kid gloves, if not as some kind of favorite son, rather than the thug that he is.

Mr. President, let us go back a little more than 10 years, and as Al Smith used to say, "Let's look at the record."

On March 3, 1978, the distinguished majority leader of the Senate, Mr. BYRD, on behalf of himself and Senator Howard Baker, the then minority leader, and 76 other Senators offered an amendment to the Panama Canal Neutrality Treaty in conjunction with the debate on the relinquishment of the Panama Canal and the territory of United States in the Panama Canal Zone.

Mr. President, the Byrd-Baker amendment, as it is known, provided the following:

Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional process, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal.

Mr. President, that amendment was adopted by the Senate with only three dissenting votes—85 Senators voted for it, 3 Senators voted against it—and it was subsequently accepted by the Republic of Panama and is now a part of the text of article IV of the Panama Canal Treaty.

Now, what makes the Byrd-Baker amendment of 10 years ago particularly relevant today is the continued reports that I am receiving both from reliable independent sources as well as the news media that for all intents and purposes the Soviets, the Cubans, and the Nicaraguans have moved into Panama. Worse still, the armed forces of one or more of these countries, notably Soviet-controlled Cubans, may have penetrated canal defense areas manned by United States troops and may have actually engaged United States troops in combat.

Now, I am choosing my words carefully because I do not want to violate any intelligence rules in the process.

A principal purpose of the pending amendment that I just offered is to determine, so that the public can know as well as the Congress, if these reports are correct. I happen to know of my own knowledge, but I think it ought to be made official. I think the American people ought to know. I think certainly that the Congress ought to know, and I certainly think that the Congress ought to pay attention to the information when it is received.

The amendment does not say that the reports are correct or incorrect. The amendment simply ensures that the President of the United States who has access to all of the relevant facts will inform the American people about these reports, reports which I will not reiterate that I have been receiving on a regular basis from various sources. I think the American people have a right to know. That is the purpose of this amendment.

I hope somehow that these reports will be proved incorrect. But they are there, reports of Soviet-instigated Cuban military activities in Panama. They are there. I think we need to bear in mind that it would be naive to the extreme to even think that the dictator Noriega is incapable of selling his soul, his country, and the Panama Canal to the Communists to receive the totalitarian political technology, chiefly armed might, that he needs to stay in power.

Mr. President, I am sure that most Senators are familiar with reports that 100,000 Soviet-made AK-47's and Soviet-made rocket-propelled grenade launchers along with grenades and mortars and other weaponry made to order have been shipped to Panama and hidden in inaccessible sites around the country. If that is not a threat to the Panama Canal, I do not know what would be one.

Even more disturbing is a recent report that a Marxist-Lenist "internationalist brigade" so-called consisting of about 1,200 troops has infiltrated into Panama from where? From Cuba. If this report is true—and I think it is—then it would be logical to assume that the influx of Soviet weapons is a directly related incident because do not forget that the fondest goal in this hemisphere of the Soviet Union is not merely to get Nicaragua, Cuba, and other countries under the Communist umbrella but to get that Panama Canal. That is what a lot of us warned about 10 years ago.

In any case, Mr. President, the implications for the security of the 50,000 American citizens in Panama today, and the even greater strategic implications of these apparent developments are staggering. And we should not be asleep at the switch which is why that amendment is at the desk right now. That is why I have offered it.

The Senate and the American people are entitled to know the truth and they are entitled to learn it from the man they elected twice to be the President of the United States, Ronald Reagan. They are entitled to have from the President a formal statement of the facts.

If the President confirms that the facts are as reported, then the United States should take seriously its treaty responsibilities and act to fulfill its obligations under the Byrd-Baker amendment of a little more than 10 years ago. The bottom line, Mr. President, at least in the judgment of this Senator is that those obligations include the obligations to insist that the dictator, General Noriega, is brought to justice for drug trafficking aimed at the young people of this country, and our present and future security as a nation.

I will yield the floor in just 1 second. But before I do so, I ask unanimous consent there be printed in the RECORD an article entitled "Marxist brigade infiltrates Panama to defend Noriega" from the Washington Times of April 5, 1988, and the Washington Times article titled "Shadow of Cuba grows in Panama," of April 29, 1988.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Apr. 5, 1988]

MARXIST BRIGADE INFILTRATES PANAMA TO DEFEND NORIEGA

(By Lou Marano)

An international Marxist brigade of 800 to 1,200 Latin Americans, mostly Cubans but including some Colombians and Nicaraguans, has landed by air in Panama to support Gen. Manuel Antonio Noreiga.

U.S. and Panamanian sources said yesterday the brigade arrived on the night of March 24 at a remote airstrip in Panama.

News of the incursion was confirmed as 1,300 more U.S. troops prepared to leave today, for Panama, taking with them attack, observation and transport helicopters.

The guerrilla force landed in aircraft resembling American-built DC-6 transports at the remote Petro Terminales airstrip in Rambala, about 25 miles southeast of Almirante, in Bocas del Toro Province on the northwest Caribbean coast, The Washington Times was told.

The airstrip, which services an oil company, is usually deserted at night, a Panamanian source said.

The landings were witnessed by a Panamanian Defense Forces officer, said the source, even though PDF troops "were removed from the area to avoid problems."

The members of the unit were taken that night to a pier at Rambala, loaded onto LCMs (landing craft, mechanized) and sailed east along the coast to a point west of Miguel de la Borda. They disembarked there early on the morning of March 25 and walked through the jungle to Coclecito, where the late Panamanian strongman Omar Torrijos had a mountain retreat, the Panamanian source said. Coclecito is about 60 miles west of Panama City.

The force now is dispersed across the country, with many of the newcomers in Panama City guarding Gen. Noriega, sources said.

First reports of the Marxist landings came last week from Panamanian sources. The news was confirmed yesterday by a U.S. intelligence source with close knowledge of the situation in Panama.

The foreign arrivals have taken the place of an Israeli team that had provided Gen. Noriega with his personal security and communications, sources said.

The team was headed by Mike Harare, a former agent of Mossad, Israel's secret service, well-informed sources said. Mr. Harare, said to be very close to Gen. Noriega, was Panama's honorary counsul in Tel Aviv. The sources said the United States pressured Israel to withdraw the team earlier this year.

"Apparently Noriega can't trust his own people," the U.S. source said. Because of division within the 15,000-member Defense Forces, Gen. Noriega trusts only his key staffers, he said.

The U.S. source who put the number of those in the landing force at between 800 and 1,200 attributed his information to "multiple-source reporting throughout the country. People are calling in and saying, 'I just talked to a Cuban in a PDF uniform.' They appear to be dispersed throughout the country for different functions."

The Washington Times reported last week that Cubans were among those who raided the Panama City Marriott Hotel on March 28.

"We identified them on the basis of accent, haircuts and skin tone," a source said at the time. "They were not Panamanians."

Journalists and opposition leaders were roughed up on the raid, and TV news videotape was confiscated. Nearly 20 opposition leaders and eight U.S. journalists were detained. Five opposition leaders were arrested, and one of those is still in custody.

On Friday, when President Reagan ordered 1,300 new U.S. troops to Panama, U.S. officials said it was a response to the arrests and beatings of the American reporters.

Three dissident Panamanian military officers told The Times last month that Gen. Noriega was laying the groundwork for a future Cuban-supported guerrilla war against the United States in Central America.

The officers were quoted as saying arms recently flown into Panama from Cuba included 100,000 Soviet-make AK-47 automatic rifles, rocket-propelled grenades, hand grenades and ammunition. Gen. Noriega's private Boeing 727 jet was used for some of the flights, they said.

Air Force Maj. Augusto Villaz said he had flown three of the 16 scheduled flights that ferried some 250 tons of arms and ammunition from Cuba to Panama in preparation for a possible left-wing, anti-American insurgency.

The American troops departing today will double the present U.S. security force of 1,270 men in Panama, which Mr. Reagan doubled just last month from 600.

In addition, there are 10,000 U.S. troops stationed in Panama, the headquarters of the U.S. Southern Command, which covers Central and South America.

Some 200 members of a combat aviation brigade departed by helicopter from Fort Ord, Calif, yesterday for Travis Air Force Base, 150 miles to the northeast, the first step on their trip to Panama.

Lt. Col. Rick Dodge, commander of the unit dubbed "Task Force Hawk," said his pilots, ground crews and air crewmen are prepared for any of the missions they have trained for, including transporting troops, evacuating civilians and other military operations.

The troops, members of the 7th Infanatry Division (Light) Aviation Brigade, will leave Travis today on Air Force transport planes.

Accompanying them will be 26 helicopters, including 15 UH-60 Blackhawk utility helicopters, seven AH-1S Cobra attack helicopters and four OH-58 Kiowa observation helicopters.

The unit will join about 1,100 other Army soldiers and Marines, who will arrive in Panama from tomorrow through Friday.

Army spokesman Paul Boyce said the troops are taking all the types of helicopters they normally fly and train with. He called the action "a normal troop movemement," not an emergency deployment like the recent Honduran mission.

(James M. Dorsey contributed to this article, which is based in part on wire service reports.)

[From the Washington Times, Apr. 29, 1988]

SHADOW OF CUBA GROWS IN PANAMA

(By Peter Almond and Bill Gertz)

Military and intelligence officials say evidence of Cuban involvement in intrusions on U.S. base areas in Panama is growing.

Several officials with access to top level intelligence reports each told The Washington Times independently that those reports describe continuing probes by Cuban commando units against U.S. military installations in Panama, increased political agitation by Cuban political advisers, and casualties suffered by the Cubans in some of their probes.

But senior Reagan administration representatives continue to insist there is not enough definitive evidence to allow them to announce publicly who is responsible.

The Marine Corps—humilated and angry after an April 11 incident in which one Marine was accidentally shot and killed by fellow Marines—has been pressing for the administration to demonstrate there is indeed a significant, professional military effort to probe U.S. defenses in Panama.

Military and intelligence sources have described in detail some of the intrusions that are frustrating the Marines.

For example, three U.S. military officials with access to intelligence reports told The Washington Times that Cuban special military forces and intelligence agents launched a covert operation this week aimed at provoking a military incident with U.S. forces at Howard Air Force Base in Panama as part of a larger effort to foment anti-American feelings in the country.

Other officials have cited conflicting reports that the Marines killed at least two Cuban commandoes during an April 12 incident near Howard AFB and wounded six others.

The commandos were said to be part of a contingent of Cuban military and intelligence operatives recently dispatched to Panama to carry out operations against U.S. military and civilian facilities in support of Panamanian strongman Gen. Manuel Antonio Noreiga.

But Pentagon officials and a senior White House offical—at least publicly—are telling a different story.

Marine Commandant Gen. Alfred Gray discussed the incidents in Panama recently with Pentagon spokesman Daniel Howard, and the latter said later: "We just do not have the evidence to come out with anything substantial:

"I think there is no doubt our defenses are being probed" said Lt. Cmdr. Greg Hartung, spokesman for U.S. Southern Command in Panama. "We are dealing with professionals, using professional military tactics, well-trained, disciplined. But I do not know who is behind it."

The senior White House official acknowledged yesterday that "there has been some information of Cuban personnel there [in Panama] but in insignificant numbers."

Adding to the confusion, however, is the official's further statement that he had "forgotten whether there were any casualties from the Marines' fire.

"At first we thought the boys were nervous and firing at shadows, but that now appears not to be the case," the senior official said. "It appears now that there were intruders of some sort and there have been exchanges, but I don't know about casualties.

"I don't know if Cubans were involved in the firefights," he said.

"It is not unheard of for this same sort of operation to be directed toward Guantanamo Bay [a U.S. naval base in Cuba.] Shadowy figures," the official said. "It doesn't appear to be a well-executed military maneuver but more in the nature of harassment."

Intelligence officials said there were reports that about 20 armed intruders believed to be part of a Cuban special forces unit were fired upon by U.S. Marines defending Howard AFB on Tuesday, although a Pentagon spokeswoman said she knew of no such incident.

But the officials insisted that the intruders set off 15 flares around the defense perimeter of the air base, drawing gunfire from marine patrols.

They also said the Tuesday incident was the latest in a series of maneuvers by armed commandos clad in black pajama-like camouflage suits and wearing black berets.

"This was a probe by Cuban 'Spetsnaz' [the Soviet term for special forces] that is occurring nightly near Howard," one intelligence official said.

The intelligence operatives are under the control of senior officials of the Cuban DGI intelligence service, which has maintained close ties to Gen. Noriega, and are active in an increasing number of propaganda and disinformation operations in support of the Noriega government, the intelligence officials said.

According to military sources, in the April 11 incident at the 800-acre Arraijan fuel storage facility near Howard Air Force Base, a Marine search party has split up and almost surrounded seven or eight intruders. Cpl. Ricardo Villahermoso, 25, of Puerto Rico, tripped a flare and was shot and killed by his colleagues who thought they were hearing gunfire.

The next night, about 100 Marines engaged some 50 intruders at the Arraijan facility in thick, triple-canopy jungle. Marines reported making several hits, but a detailed 48-hour sweep of the area found only a flare, an unused battledressing, two bottles of insect repellent and a black bandana. None of these, Pentagon and Southcom spokesmen said, are used by U.S. service personnel, but they could not identify the items further.

Nevertheless, reports persisted that the Marines had made hits, including the two men reportedly killed and the six wounded.

An individual interviewed by the military is said to have reported that one man was pronounced dead at a Panamanian hospital and that he heard Spanish spoken with a Cuban accent there. The source said other casualties were hastily spirited away from the hospital, apparently by Cuban diplomatic personnel.

Military officials got one report that the intruders could have escaped on a Cuban ship which developed "engine trouble" in the Panama Canal locks.

A spokeswoman at the Panama Canal Commission, a U.S. government agency, confirmed that, on April 14, the general purpose ship Moncada reported "steering failure" northbound in the Pedro Miguel locks. The ship docked at the tie-up station about one mile north, which is within eight miles of the Arraijan facility.

A Panama Commission launch helped the Cuban ship's local agent take the defective steering apparatus to Panama City for repairs and returned it the next day. The Moncada got under way on the 16th and cleared the locks, headed for Cuba, the following day.

The spokeswoman said she did not know if any extra passengers had boarded the ship while it was docked. "I would doubt it. The tie-up dock is brightly lit and observed by video cameras," she said.

Reports of Cubans in Panama abound in the streets of Panama City. Cmdr. Hartung said Panamanian friends had told him of being stopped at Panamanian Defense Force roadblocks in the area where the words "Coche," Spanish for car, and "baul" for trunk were used.

"These are words used in Mexico and Cuba, but not in Panama," he said.

Last week, it was the U.S. Army's turn to encounter intruders, and yet fail to find any incriminating evidence.

About midnight on April 19 at the Rodman ammunition storage site next to the U.S. naval station and the U.S. Marine barracks, an Army guard reported seeing three men inside the perimeter. They were wearing the tiger-striped camouflage and berets common to the Panamanian Defense Forces (PDF) and carried pistols and satchels.

Ordered to stop, and under perimeter lights, one of the intruders fired his revolver at the guard, who returned fire and called for help. The intruder fired again and the three men ran before a 12-man Marine quick reaction force arrived. They found nothing, but military sources say intelligence officials are working with a video tape to try to identify the intruders.

The next night at 8, a three-member Army observation team one-and-a-half miles west of Howard Air Force Base on a secretive mission to try to intercept intruders was approached by about 30 individuals, according to officials.

The soldiers detonated Claymore mines as the men approached less than 30 yards away. No shots were fired, but the mines scared the intruders into retreating.

(Jeremiah O'Leary contributed to this report.)

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. HELMS. I thank the Chair. I yield to my friend.

Mr. SYMMS. Mr. President, I do not know what the time situation is on this amendment. But I want to inquire of the Senator. I read the report somewhere. It slips my mind where I read it. That was about the fact that they were in the process of a firefight that took place between American Marines and unidentified troops, that some of the people killed were actually Communist Cuban troops, and some were taken to the hospital. Some were wounded and then they were picked up by the Cuban Embassy or a Cuban interest group in Panama. Does the Senator know anything about that?

Mr. HELMS. I have heard the same reports. We have checked them out. We found to the best of our knowledge that they are correct.

Mr. SYMMS. Is this the article the Senator referred to?

Mr. HELMS. That is correct.

Mr. SYMMS. This may be the article that I happen to have read. "Other officials have cited conflicting reports that Marines killed at least two Cuban commandos during the April 12 incident near Howard Air Force Base and wounded six others." I think that is something that should be of alarm to all Senators.

But the question I would like to ask the Senator, which is very frustrating to him and to this Senator is, as the superpower, the leader of the free world, the United States of America seems to be so intimidated that it is afraid to use judicial force when necessary in the preservation of liberty and the preservation of commerce in the Canal Zone, which was up until 10 years ago the United States Canal Zone in Panama. It was handed over to these two-bit drug dealers by the thinking here in Congress that somehow if we gave the Panama Canal to them, then they would start being nice people; the same thinking in my view that keeps us from giving aid to the freedom fighters in Nicaragua. But I guess the question is: Does the Senator not think it is about time that the Congress of the United States admits the failures of the War Powers Act and repeal it, or else the administration test it in court and use judicial use of military power for the good of the order in a case like Panama? If the United States is so weak, I guess I am asking the Senator, that we cannot get rid of a dictator like Noriega, yet we did try to do things here that impose hurt and pain on the people, which then makes Noriega stronger and makes the United States weaker in the eyes of the people of Panama, that we should wake up, are there not times that the judicious use of force, military if necessary, would be more sensible and better for the good of the order than the process that is taking place?

There are two questions. I apologize.

Mr. HELMS. I am one of the very few Senators who voted against enactment of the War Power Act. I recall having read the English language of it prior to its being considered on the floor of the Senate. Not being a lawyer, I decided to call on my then colleague from North Carolina, the very able, very distinguished, beloved Sam Ervin, who was a constitutional authority, par excellence. I said: "Senator, can I come by and see you for a moment? I want to ask you a question."

He said, "Sure."

I went to his office, and I took a copy of the proposed War Powers Act and I read it to him, and he smiled at me.

He said, "What is your problem?

I said: "I'm not a lawyer, but as a nonlawyer, this seems to be, ipso facto, unconstitutional."

He grinned and he said: "You got it. You don't need to be a lawyer to read the English language."

In response to the other part of the Senator's question, I think it is almost past time for the United States—to use the Senator's words—judiciously to defend freedom.

I do not think that the President of the United States ought to be hobbled in the conduct of foreign policy, and a key element of foreign policy ought to be the prevention of a takeover of this world by the Soviet Union and communism.

It is said: "Helms sees a Communist under every bed," but they are just about right. They are everywhere.

I appreciate the Senator's concern, and on the presumption that he is going to support my amendment, I thank him.

Mr. SYMMS. I am going to vote for the Senator's amendment.

When I was in Idaho on the past break, quite a stir was raised by some of the more liberal members of the media, which is a lot of them, about the fact that I made some comment

that I believed in the George Washington Revolutionary War theory of military, and that is that you never do anything that hurts the people of whatever country you are trying to engage with, whether it is the United States in the case of General Washington's Continental Army, or if it is U.S. Army as an invading force in Europe. You try to be good to the civilian people you are trying to defend, so that you have the support of the people.

In Panama, it seems to me that we have taken a position that is hard on the people but lets General Noriega go scot free.

Of course, the headlines were that SYMMS calls for using military force in Panama. I said that we do not need to send military force to Panama; we already have military force in Panama.

What we need is the political will to back up a clear-cut position, and all we get is a vacillation of our foreign policy that seems to come out of Foggy Bottom. It is never a clear position. The State Department is on one side and the DOD is on the other. In this case, the DOD is against the use of any military force. But there is always a confused signal that seems to come out.

I hope that at some time I am long enough in this town to see someone in the White House who will make a clear decision and give some orders and direct that we preserve peace and freedom and not be intimidated by it.

If the United States of America will not defend peace and freedom in the Isthmus of Panama, then who will, if the United States of America will not do it? Nobody else is going to do it.

I venture to say that if the roles were reversed and it was the Soviet Union that was overseeing a canal zone that they had given to some tinhorn, two-bit dictators who are thieves and trying to undercut the youths of their country by sending drugs in, they simply would not have any hesitation to use force if it was necessary to restore a semblance of what they considered a government that was in comity with them.

In my view, this whole Panama situation has been badly bungled by everyone concerned since the day that the treaty was signed, through the ratification process in the Senate in the late 1970's, through this time period today.

Sooner or later, the United States of America is still going to have to accept the responsibility that we are the leader of the free world. Central America, Panama—that region is part of the world where we are going to be the ultimate referee, to decide what the outcome will be; and the sooner we get on with it, the less bloodshed and tyranny and problems will happen.

This situation has been grossly mishandled by the United States. There is plenty of blame to go to the Democrats, plenty of blame to go to the Republicans, plenty of blame to go to people who are not interested in politics, plenty of blame for the State Department and DOD. Everybody can share in this blame. But I believe we should get on with it now.

I support the Senator's amendment. At least it will make people focus on the fact that Noriega's best friends in the Western Hemisphere are Fidel Castro and the Ortega brothers.

"The Ortega brothers," in this Congress, does not mean much. I often say at home that it appears, when I look at Congress, that Congress has not realized that there is a difference between the Ortega brothers and the Osmond brothers. I hope that sometime Congress becomes more enlightened and can recognize that.

Mr. HELMS. I thank the Senator.

The difference between the Soviet Union and the United States was dramatically and horribly pinpointed for both the Senator from Idaho and the Senator from North Carolina in 1983, when, by the grace of God, Senator SYMMS and Senator HELMS were not on that plane that was shot down deliberately and premeditatedly by the Soviet Union because it was in violation of the air space.

Mr. Noriega is another Keystone Cop exercise by the State Department.

It reminds me of the inept husband who did not know anything about babies or anything else, who was asked by his wife to change the diaper on the baby, and he took the pins off and left the diaper in place.

That is what they are proposing to do in Panama by letting Noriega get, as somebody said, time off for bad behavior, and designate his own successor.

You do not deal with tyrants that way. At least, I was raised to believe that you did not. But maybe I have lived too long.

In any case, I thank the Senator for his comments, and I yield the floor.

Mr. NUNN. Mr. President, I have conversed on this amendment with the chairman of the Foreign Relations Committee and have talked briefly to the ranking member, who is proposing this amendment.

I agree with much of what the Senator from North Carolina is saying about the situation in Panama and much of what Senator SYMMS has just said. But one of the problems with this amendment, as drafted, is that it would deny funds for the combined board which is set up by the Panama Canal Treaty, and that board has a large bearing on the protection of the canal. The operation of the board really, basically, works with both the Panamanian forces and the United States military forces jointly to protect the canal.

So, in order to make a very strong point about our disapproval of General Noriega and the current government in Panama, it does not serve our interests to disrupt the military protection of the canal, and I am afraid that that is what this would do.

I am also afraid that Noriega, in fanning the flames of his own population, will use this amendment, unless it is changed somewhat, as an effort by the United States to break the Panama Canal Treaty. I think that at this juncture, that kind of fanning of the flames, when we have economic sanctions in place, could find very receptive public opinion. So we have to be very careful about how we word our efforts to deal with the situation.

And I would ask the Senator from North Carolina if he would consider accepting a possible substitute that would take out any reference to the combined board established by the Panama Canal Treaty. This substitute would read as follows:

It is the sense of the Congress that the United States should limit its military cooperation with Panama to those activities essential to the defense of the Panama Canal or the presence of U.S. Armed Forces in Panama and should provide no further military assistance to the Panamanian defense forces if there are any armed forces of the Union of Soviet Socialist Republics, or Cuba, or Nicaragua present in the Republic of Panama, or as long as Gen. Manual Noriega remains the commander of the Panamanian defense force.

I wonder if the Senator from North Carolina could respond to the question whether he would be receptive to that kind of substitute.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. NUNN. I am glad to yield.

Mr. HELMS. I will look at that. If the Senator will, let me suggest that we have a brief quorum call and let me look at the actual text. I also have a suggestion. Maybe we can meld them. I suggest the absence of a quorum.

Mr. NUNN. I wonder if the Senator would withhold that for a moment.

Mr. HELMS. Yes.

Mr. NUNN. I would be delighted to put in that quorum for the purpose of discussing this amendment.

Let me ask if on the next amendment, which is the one related to Afghanistan, the Senator would be prepared to enter into a time agreement that would let us have the vote on or before 2:15, the chairman says, and the reason being we have a very important Foreign Relations Committee meeting. I know the Senator wants to be there. We could perhaps conclude the debate on that amendment and begin a vote in time to reach the 2:30 meeting.

Mr. HELMS. The Senator contemplates voting on the Panama amendment, subject to that, either voice or rollcall?

Mr. NUNN. If we do not work it out. I would not propound that unanimous-consent request now. I ask the Senator to think about it. That depends on whether we work this out. If we do not work this out and have a rollcall, obviously we do not have time to complete the other amendment.

Mr. HELMS. Correct.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent—and I believe the distinguished managers of the bill are agreeable—that we lay aside the pending amendment temporarily while we examine some possibilities as to adjusting the text of the amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

AMENDMENT NO. 2086

(Purpose: To prohibit the expenditure of funds for implementation of the U.S.-U.S.S.R. Afghan agreement until the President has submitted such agreement to the Senate for its advise and consent)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2086.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. SYMMS. Mr. President, I would like to hear the amendment read. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

Add at the end of the bill the following new section:

"SEC. . Notwithstanding any other provision of law or of this Act, no funds authorized or appropriated by this or any other Act shall be obligated or expended, directly or indirectly, for implementation of any provision of the document of April 13, 1988, purporting to be an agreement made between the United States of America and the Union of Soviet Socialist Republics concerning the 1988 Treaty made by Afghanistan and Pakistan in connection with the Soviet occupation of Afghanistan unless and until the President has submitted such document as a treaty to the Senate for advice and consent to ratification.".

Mr. HELMS. Mr. President, the purpose of this amendment, I believe, is about as straightforward as it could be. The amendment would block funds to implement the Afghan agreement of April 13 until this Senate receives from the President of the United States those so-called Afghanistan accords for advice and consent as a treaty. We have no business dealing in this fashion, in the judgment of this Senator, on some sort of agreement that I very much doubt any Senator has read.

If we are going to get involved in this, this treatymaking, let us make a treaty, not some agreement that has been entered into by the State Department.

There are many reasons why I say this: There are many reasons why the Senate should review the accords in the form of a treaty. The first and main purpose for this review is to prevent any further degradation or diminition of the constitutional duty of the Senate to gives its advice and consent to any treaty that the United States signs with another sovereign nation.

The second reason, Mr. President, is that the nature of the Afghanistan agreement is so ill-conceived that the Senate should have the opportunity to debate these issues before it gives its advice and consent. Possibly we could improve the document. All wisdom does not reside in Foggy Bottom.

Mr. President, let me summarize, as quickly as I may.

The U.S. Department of State, in order to get an agreement with the Soviets, agreed to let the Soviets supply the Soviet installed puppet "Afghan Army" with weapons and supplies.

However, Mr. President, in order to satisfy the U.S. Senate, domestic political opinion, and the President, the State Department dreamed up the so-called "symmetry argument"—that is to say, each superpower would have equal ability to supply their respective side.

So, Mr. President, the State Department in order to satisfy the "symmetry agrument" and get an agreement, apparently applied pressure to Pakistan to get Pakistans signature on an agreement that makes it illegal for the Pakistanis to ship any arms to the freedom fighters.

If that is not a buzzard stew, I never heard of one. What kind of foreign policy is that? The Soviets, no doubt, plan to abandon the southern part of Afghanistan for now, but only for now.

Mr. SYMMS. Will the Senator yield? I do not want to interrupt the Senator's speech, but I thought you asked a question and deserved an answer. The answer to the Senator's question is it is a typical policy designed to snatch defeat from the jaws of victory.

This Senator visited Pakistan in January 1988 and visited what has happened over there on the border and talked with the leader of the Mujahidin and other leaders that are involved in the effort. Freedom is clearly winning over the Communist Russian, Soviet troops. Clearly, Soviet troops are getting their tails handed to them on a tray over there. All we had to do was keep what we were doing and we were winning anyway. Those Soviet troops will be leaving or else they will have the same fate that befell the British some 100-plus years ago in this same country. There will not be anybody left when it is over.

But, no, the United States comes up with some scheme to let them off the hook, which is what Yunis Khalis said to me in January 1988. He said:

You people in the United States are getting ready to sell us out. We fought, we died, we bled, and now you are getting ready to sell us out. We have a million and a half refugees in Iran, 3 million in Pakistan, a million of our own citizens have been killed here and we are not going to stop until we throw the Soviet Army out, no matter who helps or who does not.

So, for us to sign an agreement that ties the hands of the forces of freedom behind their backs and allows the forces of oppression to have a free reign to fight and kill innocent people is absolutely pathologically irrational.

Mr. HELMS. I totally agree with the Senator, and I thank him.

Mr. President, the result is that while the Soviets can supply all the material and weapons that they want, we will not be able to use our Pakistani pipeline to resupply the freedom fighters. This in effect means that the United States and Pakistan must breach international law to supply the Afghan freedom fighters with arms.

Meanwhile, Mr. President, the State Department can say with an apparent clean conscience that, in principle, the concept of symmetry exists.

The Soviets, Mr. President, have been running between 200 and 400 trucks a day laden with war material into the northern part of Afghanistan where they have set up a "super province."

Mr. President, in northern Afghanistan the Soviets have made treaties with the local puppet officials and constructed a massive series of forts and fire bases to protect their political, economic, and military control over this territory.

This northern territory, Mr. President, is the richest in Afghanistan. The north not only provides the nation with more than half its total wheat, barley, and vegetable harvest, but also produces 2 billion cubic meters of gas annually for export by pipeline to the Soviet Union.

The Soviets no doubt plan to abandon the southern part of Afghanistan, and for now, wait for the rebels to become less organized and, low on weapons, and then hit back.

Perhaps, Mr. President, the Soviets are planning a creeping extension of political and military control based from this northern super province.

Mr. President, as the freedom fighters' military supplies run low, and there may be less international political support for their cause when the Soviet troops appear to have left. The Soviets could creepingly take back the rest of Afghanistan from their set of puppet provinces and fire bases in the north.

Thus it could well be that Soviet hedgemony over Afghanistan is assured by this agreement.

In a post-Afghan agreement era, the political cover will be there for the Soviet apologists to say—a la Nicaragua—"we cannot wreck the peace process and supply arms to the rebels."

The freedom fighters thus would be left to face the Soviet weapons without United States political and military support.

Mr. President, as the Senate is already aware, Soviet orchestrated sabotage has destroyed the majority of the Afghan's stockpile of arms in Pakistan.

That sabotage destroyed the last stockpile of American military aid to the freedom fighters in Afghanistan and will, according to some reports, take 6 months to replace, even if the United States and Pakistan decide to break the existing laws that were consummated in the recent Afghan agreement.

Mr. President, I ask unanimous consent that the two articles, one from the Washington Post, dated April 24, 1988, titled, "North Afghanistan Seen as a Pro Soviet Buffer," and an op-ed piece from the Hartford Courant, dated Sunday, April 24, 1988, titled "Even Though Defeated, Soviets Emerge as Victor of Afghanistan War," be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 24 1988]

NORTH AFGHANISTAN SEEN AS PRO-SOVIET BUFFER—IT COULD BECOME NAJIBULLAH'S LAST REDOUBT

(By David B. Ottaway)

MAZAR-E SHARIF, AFGHANISTAN.—This peaceful capital of the strategic northern province of Balkh has become a showcase for the Kabul government as it seeks to demonstrate to foreigners the success of its national reconciliation policy. Provincial and national assembly elections were just held here, and "opposition" candidates won nearly a third of the vote.

Because of its strategic location and economic importance, the fate of north Afghanistan in the continuing political turmoil wracking this country has been the subject of much speculation in Washington and other western capitals.

Some U.S. experts believe that Balkh and the eight other northern provinces along the Soviet border are being prepared as a last redoubt of President's Najibullah's People's Democratic Party of Afghanistan if the U.S.-supported Afghan rebels take over in Kabul and party rulers are forced to flee.

The Soviet Union, according to this theory, would extend its protection to a kind of northern "republic" ruled by Najibullah's regime and thereby create a buffer zone between itself and unfriendly new rulers in Kabul akin to that established by Israel in southern Lebanon.

In the past two months, the Kabul government has taken a number of steps that strongly suggest the regime has a special design for the north—the country's breadbasket and the center of its oil and gas wealth.

These step have included the reorganization of the provinces along the Soviet border under one regional authority, the establishment of a new province called Sari Pol in the area and the appointment of a special deputy prime minister for the north, Najibullah Masir. At the same time, the Soviet Union has been establishing ties directly with cities and districts in the northern provinces by signing economic accords with them.

But authorities here and in Kabul appear taken aback by western interpretations of recent events here and by supposedly secret intentions of Najibullah's party to establish a northern redoubt. They explain the events as part of a national plan to reorganize the whole country and provide better coordination of development.

They do not dispute the special importance of the north to the central government. "We call it our *kandoo*, which is what the peasants store their flour in," said Samad Salim, deputy chairman of the Afghanistan Academy of Science and a former minister of mines.

Not only does the north provide the nation with more than half its total wheat, barley and vegetable harvest, but it also produces 2 billion cubic meters of gas annually for export by pipeline to the Soviet Union. This provides the central government with hard currency for a quarter of its annual budget, Salim said.

In addition, the gas feeds Afghanistan's only chemical production plant and a major electrical power installation just outside this city. The chemical plant produces 110,000 tons of urea annually.

The latest foreigners to visit this prosperous industrial and religious center near the Soviet border included a dozen Americans from the Washington-based International Center for Development Policy and 15 Soviet scholars. Together they were flown Friday from Kabul aboard two government-chartered planes for a day-long tour.

The private American delegation is the first to visit Afghanistan since the Soviet invasion in December 1979 and, in a bid to win U.S. recognition and aid, Afghan authorities have been eager to demonstrate that the government does control strategic centers of the country in addition to Kabul.

Asked by reporters accompanying the group why the northern provinces were being reorganized into a special region, Mohammed Sharif, secretary of the ruling party, noted the economic importance of the area and said it was being done "in order to coordinate development projects." Other local and Kabul officials said the reorganization was an outgrowth of too much squabbling among competing provincial governors for money and projects. They also said the entire country is being realigned into four regional authorities—North, South, East and West—and that the government had begun here because of the north's special economic importance.

As for why the government created the new province of Sari Pol out of southern Balkh and neighboring Jowzjan province, local officials said it had mostly to do with tribal politics. The Shiite Hazara people, who make up the majority in that region, are now consolidated into one province, they said.

Although Shiites account for only 10 to 15 percent of Afghanistan's otherwise Sunni Moslem population, the government has been courting their support as it has other minorities in an effort to broaden its popularity.

But apparently the main reason the U.S. and Soviet delegations were brought here was so they might view the achievements of the government's national reconciliation policy at ground level.

Sharif, the chief of the ruling party, said 110,000 of Balkh's population of 600,000 had voted in provincial and national assembly elections held April 6 to April 15 and that many "coalition administrations" including opposition members had been set up at the village and town level as a result.

He conceded, however, that most of the "opposition" votes—about 30,000 all told—had come from several small parties allowed to operate under the government "national front" dominated by the People's Democratic Party. But he also cited the example of Mohammed Zaher, a former member of the fundamentalist rebel group Harakat Islami, who won a seat in the assembly of Pari Pol province with 15,000 votes.

Zaher, interviewed later, said another former Harakat member had also been elected to the provincial assembly and that two others had won seats in the new national assembly.

Asked if he regarded himself an "opposition" representative, Zaher seemed startled. "I'm not in the opposition now," he said. "Why should I be against the government which gave us elections for our people?"

Zaher also said he felt the government had taken steps to protect "the status of Islam," which the constitution adopted last year made the official religion of the country, although not of the state.

[From the Hartford (CN), Courant, Apr. 24, 1988]

EVEN THOUGH DEFEATED, SOVIETS EMERGED VICTOR OF AFGHANISTAN WAR

(Michael Reisman)

Politics, Soviet leader Mikhail S. Gorbachev is teaching the West, is the continuation of war by other means. His most recent lesson is the April 14 agreements between Pakistan and the Najib government in Afghanistan, which have been "guaranteed" by the United States and the Soviet Union.

The Soviet Union invaded Afghanistan in December 1979, murdered President Hafizullah Amin, and replaced him with Babrak Karmal. Pravda explained that it wasn't an intervention, because the Afghan president had invited the Soviets to aid the Afghan government. The invitation, however, came from Karmal, who was in the Soviet Union at the time and held no office in the Afghan government.

Afghanistan put the Soviets within a few minutes airtime of the Persian Gulf, allowing them to pressure Pakistan and China.

The only rub was the Afghans themselves. Since 1979, Afghanistan has been embroiled in a vicious war between Soviet and Afghan

Communist forces and the mujahedeen, the Afghan resistance. The United States, Saudi Arabia and China have been the major sources of aid for the mujahedeen. The aid has been channeled through Pakistan, the only possible route in.

As long as the Afghans resisted the Soviets with primitive weapons, the Soviets prevailed. But when the United States began to ship technically advanced weapons to the mujahedeen through Pakistan, the technical disparity equalized and Afghan determination tipped the balance.

Despite eight years of effort, the introduction of more than 100,000 troops and intense use of air power, the Soviets were losing. They controlled only the major cities; the rest of the country was held by the mujahedeen.

The war has been internally demoralizing and diplomatically costly. The U.N. General Assembly, each year and by enormous majorities, has condemned the Soviet presence and instructed the secretary-general to work for a withdrawal.

If Gorbachev was really willing to accept the loss of Afghanistan, he could simply have withdrawn Soviet forces. A withdrawal is actually less complex to plan and execute than an invasion.

But if Gorbachev still hoped to turn a losing situation around, simple withdrawal wasn't the answer. He needed to break the U.S.-Pakistan connection, to get the United States to stop the supplies and Pakistan to close its border. Then the Soviet puppet forces would have a chance to contain the mujahedeen, and possibly prevail over them. Even if the gambit failed, at least the Soviets weren't leaving in disgrace.

The papers signed in Geneva give Gorbachev everything he wants. The agreements are between Pakistan and the Soviet puppet government in Kabul. They agree to "normalize" relations and not to interfere or intervene in each other's affairs.

Each party agrees "to prevent within its territory the presence, harbouring, in camps and bases or otherwise, organizing, training, financing, equipping and arming of individuals and political, ethnic and other groups for the purpose of creating subversion, disorder or unrest in the territory of the other . . ."

There's no reference anywhere to the mujahedeen, but in Article 2(8) of the bilateral accord, Pakistan and Afghanistan each agree "to prevent within its territory the training, equipping, financing and recruitment of mercenaries from whatever origin for the purpose of hostile activities against the other High Contracting Party."

In other words, there's to be no pipeline, indeed no more help of any kind, for the mujahedeen against the Majib government.

The United States and the Soviet Union agree, in the Declaration on International Guarantees, that they signed, "to invariably refrain from any form of interference and intervention in the internal affairs" of Afghanistan and Pakistan.

To the layman, that may sound symmetrical but those are terms of art in international law. It's not interference or intervention when a foreign state enters at the invitation of the local government. Because Najib, the Soviet puppet who replaced Karmal, is the government of Afghanistan and can ask Moscow for support, anything Moscow gives won't be intervention. Anything the United States gives in the future to the mujahedeen will be an illegal interference and an intervention.

That's about as symmetrical as Honore de Balzac's description of the law that in its majestic impartiality prohibits rich and poor from sleeping under bridges at night.

When the press and Congress discovered the sellout, Washington covered its embarrassment by adding a unilateral "statement" in which it insisted that if the Soviets supply "parties" in Afghanistan, the United States reserves the right to do the same, and that "by acting as guarantor of the settlement, the United States does not intend to imply" that it recognizes the Najib regime as the lawful Afghan government.

How this fits with our guarantee of the agreement and how this permits Pakistan to continue that indispensable supply line is, to say the least, obscure.

If the Soviet gambit works, Pakistan will have a Soviet dependent state permanently on its doorstep and 3.5 million Afghan refugees as permanent residents.

The mujahedeen have denounced the agreements. They view them as an attempt to steal their hard-won victory by a combination of Soviet duplicity and U.S. complicity.

The agreements aren't bad for everyone. Gorbachev has turned certain defeat into a fair and economical shot at victory. President Reagan looks good and can go to Moscow in May like a winner. The United Nations looks like it works; it brokered the deal and can claim that it performs an important peace-making role. Najib has a better chance of staying in power than at any time since he seized it.

Perhaps this is what peace has come to mean in the waning years of the 20th century. Considering that Henry A. Kissinger got his Nobel Prize for bringing peace to Vietnam, and Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin shared one for bringing peace to the Middle East, there may yet be a few laureates here.

Mr. HELMS. Mr. President, as the ranking Republican member of the Committee on Foreign Relations, I am deeply concerned that the Soviet withdrawal from Afghanistan, which under the recent Geneva Agreements is to begin on May 15, could well be another case of Soviet strategic deception. This region—including Pakistan, free and occupied Kashmir, and India—is and has been for centuries a pivotal area in world politics. The United States has global interests; we ignore the developments in this region at our own peril.

I do not believe that the Soviet Union intends to fully withdraw from Afghanistan at all. Afghanistan, as a pivotal in the regional as well as in the global balance of power, is not going to be simply abandoned by Moscow.

To this Senator, it is naive to assume that the Soviets will not—one way or another—attempt to set up a sphere of influence over all or part of Afghan territory using whatever means the Kremlin calculates to be necessary.

In the view of many experts, it is likely that the Soviets will fall back to a position which will include the nine northern provinces of Afghanistan. The Soviets can thereby take advantage of the massive Hindu Kush mountain ranges and associated ranges which essentially divide the country into a northern third and a southern two-thirds.

These northern provinces are: Badghisat, Faryab, Jowzjan, Balkh, Samanagan, Baghlan, Kunduz, Takhar, and Badakhshan. Included in the Soviet occupation zone would also be the recently created artificial province of "Sari Pul" which is composed of the southern portions of Jowsjan and Balkh province and about half of Bamiyan province.

For centuries extending back before even Alexander the Great's march through the area, the territory that is Afghanistan has been a strategic crossroad between West and East. During the last century, the British Empire and the Russian Empire struggle for supremacy in the area in what became known as the "Great Game" over the control of the transportation routes through the Near East to India. It is not surprising that the Soviet Empire today seeks hegemony in this region.

Given the significance of this critical geographic area of the world, there are a number of questions which we should be asking ourselves on the eve of this supposed Soviet withdrawal. We should ask these questions in the context of overall Soviet global strategy which includes, of course, the INF and START negotiations on intermediate and strategic nuclear arms.

In light of Soviet strategy, what is the real purpose of and nature of the withdrawal that Gorbachev has promised?

Are the Soviets really going to take every last Soviet soldier in their occupation force out of Afghanistan?

Are the Soviets going to establish a bastion in the northern Afghan provinces and dig in for a further extended occupation?

There are further questions which must be raised which relate to the overall regional balance of power. Just last week, the Soviet puppet dictator of Afghanistan Najibullah spent 3 days in India on an official visit. The Indians have offered to introduce "peace keeping" forces into Afghanistan in coordination with the Soviet withdrawal.

In light of the military relationship between the Soviet Union and India, will the Indian forces act as a surrogate for the Soviets in achieving their strategic purpose?

Are the Indian troops going to be under the direction of the Najibullah regime or the United Nations or both in order to serve as a buffer between the Afghan freedom fighters and the Soviet puppet Najibullah regime?

Are the Indian troops which are to be stationed in Afghanistan to have a secret purpose in threatening Pakistan with a potential two-front war should India choose to unleash a war against Pakistan this winter after the snows close the Karakorum passes which could bring Chinese assistance to Pakistan?

Are the Indians going to send troops to Afghanistan which are primarily drawn from the Sikh religious community in India in order to undermine the Sikh's own freedom struggle by creating ill-will among Muslims in Afghanistan and Pakistan and the Sikh troops?

Mr. President, the situation in this part of the world is highly complex and dynamic today. We may hope for the best but I am deeply troubled by the incapacity of the Department of State to protect our interests in the region. Certainly time will tell. But we must not, even for 1 day, lose sight or the lose track of the situation in Afghanistan and the nature of the balance of power in the region and in this most ancient strategic crossroad between West and East.

THE PESHAWAR POLITICAL PARTIES

Mr. President, while the struggle for freedom from Soviet occupation and oppression has been joined for some 8 years, there is confusion about the nature and composition of the freedom fighters.

The first significant distinction to make is between the exiled political parties which operate mainly from Peshawar, Pakistan and the guerilla fighters inside Afghanistan who are led by a number of distinguished and valiant commanders. The relationship between the political parties in Peshawar and the actual guerillas fighting in the field is indirect.

The guerilla commanders fighting in the field have their bases in local, family, ethnic, and tribal loyalties. They are independent of the direction, command, and control of the Peshawar political parties. They receive assistance in varying degrees, mostly quite limited, from the Peshawar political parties.

In 1981, the political parties today were divided into three "Moderate" and seven "Islamic fundamentalist" groupings. The first moderate grouping which was established in June 1981 is usually referred to as the Unity of Three. It is composed of the political parties of Ahmad Gailani, Mohammad Nabi Mohammadi, and Sibghatullah Mojadeddi.

The "Mahaz-i-Milli Islami" (National Islamic Front) is led by Sayed Ahmad Gailani. Gailani is from a well respected traditional Islamic religious family. His organization has a Pushtun cast with support in six southern border provinces. Gailani's views are democratic and nationalist.

The "Harakat-i-Enqilab-i-Islami" (Islamic Revolutionary Movement) led by Mohammad Nabi Mohammadi is loosely organized and pragmatic politically and ideologically.

The "Jabha-i-Milli Nijat" (National Liberation Front) led by Sibghatullah Al-Mojadeddi, a highly regarded Islamic scholar, is traditional and Pushtun in orientation.

The Islamic fundamentalist grouping was formed of six parties in August 1981 and expanded to seven parties in March 1982. The group was referred to as the Unity of Six and later as the Unity of Seven. The groups are as follows.

The "Jamiat-i-Islami" (Islamic Society) is led by Professor Burhanuddin Rabbani and is mainly Tajik in ethnic composition. This organization has guerilla affiliates active in the northern provinces from Herat in the northwest to Badakhstan in the northeast. Guerilla commanders affiliated with this organization include: Ahmed Shah Massoud (Panjshir Valley), Zabiullah (Balkh province), and Ismael Khan (Herat province).

The "Hezb-i-Islami" (Islamic Party) led by Gulbuddin Hekmatyar a Moslem extremist whose views have been anti-Western. Hekmatyar is disliked by other leaders, including moderates, for his ruthless and self-serving behavior.

The "Hezb-i-Islami" (Islamic Party) led by Yunis Khalis is a breakaway faction from Gulbuddin's party. As a military group it conducts guerillas activities principally in Kabul and Nangarhar provinces.

The "Itihad-i Islami Baraye Azadi Afghanistan" (Islamic Union for the Liberation of Afghanistan) led by Abdi-Rab Rasoul Sayaf also has an extremist Islamic ideology which looks for an Iranian style government with an anti-Western orientation. The group, however, has few if any guerillas forces.

The "Harakat-i-Enqilab Islami" (Islamic Revolutionary Movement) is led by Nassrallah Mansour who broke away from Nabi Mohammadi's "Harakat" organization in 1981. The party is without significant influence and has no effective guerilla forces inside Afghanistan.

The "Harakat-i-Enqilab Islami" (Islamic Revolutionary Movement) led by Rafioullagh al-Mousin who, like Mansour, broke away from the original "Harakat" in 1981. The organization has a negligible following.

The "Islamic Front' led by Mohammad Mir is a breakaway from Mojadeddi's party with few followers and no affiliated guerrilla bands.

In 1985, a combined resistance alliance composed of 7 of the 10 parties was formed and has come to be known as the Peshawar resistance alliance. The current leader of the alliance, Mohammad Yunis Khalis, was elected as leader for an 18 month term on November 8, 1987. The seven leaders comprising the alliance are: Khalis, Sebghatullah Mojadeddi, Pir Sayyid Ahmad Gailani, Gulbuddin Hekmatyar, Prof. Burhanuddin Rabbani, Mohammad Nabi Mohammadi, and Adb al-Rab Abd ul-Rassul Sayyaf.

Deeply disturbing are numerous reports that the United States as well as Pakistan have given the bulk of assistance and support to Hekmatyar and his extremist Islamic organization. Hekmatyar is reported to have influence over no more than 10 percent of the guerillas fighting inside Afghanistan.

These reports indicate that moderate resistance organizations have not received the level of assistance that they deserve. Persistent reports from sources familiar with the main guerilla commanders inside Afghanistan indicate that very little assistance from Western sources has reached them. They rely on what they can capture from the Soviets and their Afghan surrogates.

Further disturbing reports have circulated which indicate that significant amounts of Western assistance, including U.S. assistance, which was intended for the Afghan freedom fighters have been diverted to Khomeini's regime in Iran. It would certainly be an appalling and morally repugnant situation for our government to have used the Afghan freedom struggle as a cover in order to funnel weapons to Khomenini in his mad war against Iraq.

THE GUERILLA COMMANDERS INSIDE AFGHANISTAN

Mr. President, the real freedom fighting takes place on the ground inside Afghanistan irrespective of the activities of the exile political parties based in Peshawar, Pakistan, As I have indicated, the commanders of the guerilla organizations fighting inside Afghanistan are the real heart of the struggle.

While some of these commanders do have relations of varying degrees with the external exile political parties, these relations are secondary to the military conflict inside. The future of Afghanistan will in large measure be determined by the battlefield successes of the military commanders and their guerilla fighters rather than by the negotiations political parties in exile.

Mr. President, it is a fact that the guerilla commanders and their brave troops fighting inside Afghanistan have not been conquered in 8 years of bloody struggle. In fact, the guerillas who are fighting inside Afghanistan have been gaining in strength and have been consistently defeating the Soviet enemy in spite of every conceivable challenge posed by the Soviet military machine.

Among the most well known guerilla commanders are Ahmed Shah Massoud, Amin Wardak, Abdul Haq, and Ismail Khan. There are many fine commanders with distinguished records. Today, I shall just mention four owing to constraints of time.

Ahmed Shah Massoud is of Tajik background and is known for his valiant and steadfast fighting in his

native Panjshir Valley in Kapisa province. He is the son of a retired army brigadier general and attended the prestigious French run Istiqlal School in Kabul. His organization is reported to encompass guerilla groups in the neighboring Baghlan, Takhar, and Badakhshan provinces.

Amin Wardak leads the main guerilla group in Wardak province and has close ties with resistance groups in Logar, Bamyan, Paktia, and Ghazni provinces. He is a graduate of the French run Istiqlal School in Kabul.

Abdul Haq is of Pushtun background and operates in the Kabul region. His influence spreads to guerilla groups in the Ghazni, Zabul, Kandahar, and Paktia provinces which border Pakistan.

Ismail Khan is regional commander in Herat and the west of Afghanistan. His region includes Herat, Badghisat, and Fariab provinces. Over the past year he has continued to significantly broaden his areas of influence in the west.

In July 1987, Ismail Khan chaired the most broadly based meeting of commanders ever held within Afghanistan. The meeting took place at a secret location in a remote part of southern Ghor province. The meeting released a communique which called for practical measures to improve military coordination including improved communication. The communique demanded military and political unity and chastised the political leaders for not being able to work together. It also called for the establishment of a national commanders' council and a role in the determining of the future of Afghanistan.

Mr. President, I would emphasize that the Afghan resistance has been growing ever more powerful and the cumulative military successes in 1987 boosted morale to the highest level since the Soviet invasion in December 1979.

THE PARTITION OF AFGHANISTAN

Mr. President, there is no question in the mind of this Senator that the Soviets intend to remain entrenched in the northern third of the country protected by the Hindu Kush.

It is in the north where the Soviets have built several hundred manufacturing and industrial factories. It is in the north where the natural gas production takes place and where it is diverted to the Soviet Union.

Even before the advent of Islam, the Hindu Kush separated the Hindu from the world of Zoroaster in Persia. This formidable barrier marks the dividing line between Central and Southern Asia. It forms one of the greatest and least known mountain ranges in the world which have been, are, and will always be strategic.

The Hindu Kush dominate Afghanistan. They run westward from its highest point—24,891 feet—in the Pamir mountains in adjacent Soviet territory almost to the Iranian frontier.

The Hindu Kush actually refers only to the eastern and central parts of the mountain chain. Where this joins the center of the Pamirs, the system becomes continuous with the Karakorum range, itself a western arm of the Himalayas. The Hindu Kush originates on the "bam-e-dunya" ("roof of the world") in the steep northeastern corner of the country, where the narrow Wakhan corridor inserts a panhandle which separates the Soviet Union, China, and Pakistan. The Soviets have effectively annexed the Wakhan corridor.

Along a southwesterly route, the Hindu Kush divides the vast valleys of the Amu Darya—the ancients' Oxus River—and the Indus River basin, forming a succession of ridges of high peaks containing snow and glaciers. At the Pakistan border, the altitude begins to drop near the source of the Bashgul River and continues to drop all the way to Kabul—7,820 feet. About 125 miles from Kabul, it connects with the Koh-i-Baba ("Ancestral Mountains"), thus extending the watershed to the vicinity of Bamyan in central Afghanistan.

At this point, the Hindu Kush divides into two parallel ranges called the Siah Koh ("Black Mountains") and the Safed Koh ("White Mountains") and, while still losing elevation, becomes the Firozkoh ("Turquoise Mountains"). These latter are the so-called Paropamisus a word which Aristotle used in his "Meteorologica" in 330 B.C. to describe the Hindu Kush. The Paropamisus acts as a barrier between Herat and the Soviet Union.

Mr. President, this strategic geography which was well known to the ancients has not been lost on the Soviets. They know precisely what the significance of all this real estate is. The massive and feverish Soviet activity which was detected this spring in the last several months in this region leaves no room for doubt about Soviet intentions.

The Soviets have during the months of February, March, and April of this year conducted massive logistical operations bringing supplies to the northern nine provinces. These operations have included truck caravans which have contained in excess of 500 and even 1,000 trucks at a time. Air operations involving Antononov-12 and Antonov-26 transport aircraft bringing tons of supplies to this northern region have been detected. The Soviets have reportedly built a system of fortresses in a line extending across the northern provinces which can be covered by aircraft from over a dozen airbases on the Soviet side of the border with Afghanistan.

With these operations completed, the Soviets have prepositioned all the supplies that they need for the near and medium term occupation of the northern third of Afghanistan.

The State Department has tried to promote the notion that it achieved some sort of success at the Geneva meetings which resulted in the so-called arrangements for Soviet withdrawal.

Far from successful, these arrangements allow the Soviets to retain their massive stockpiles in northern Afghanistan to be used to reinforce the Kabul puppet regime of Najibullah. On the other hand, the United States must halt assistance to the freedom fighters. This is far from the "symmetrical" arrangement described by Foggy Bottom. In fact, it is reported that the massive explosions at weapons arsenals in Pakistan in recent weeks destroyed Western stockpiles for the freedom fighters.

Mr. President, in conclusion let me state that in the weeks to come we in the Senate have a responsibility to keep our attention focused on Afghanistan and, indeed, Pakistan, Kashmir, and India. We cannot look aside thinking that all has been solved by the diplomatic negotiations at Geneva. Far from it.

Mr. President, I do not doubt that the world is now going to witness a new phase of Soviet activity in the region as the Kremlin seeks to increase its hegemonic strategic position in the region through new and complex maneuvers. It is not outside the bounds of possibility that a war will erupt owing to Indian aggression against Pakistan. Should this take place, the further Balkanization of the region will result. The Soviet partition of Afghanistan marks the new phase of the battle in this ancient crossroad of civilization.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Rhode Island.

Mr. PELL. Mr. President, the Geneva accords require that half of the Soviet troops in Afghanistan be withdrawn by August 15, 1988. The remaining half are to be removed by February 15, 1989.

Most observers believe that the Soviets will meet these deadlines. Many expect the Soviets to completely withdraw before the end of this year, if not before.

This amendment is gratuitous and mischievous. If enacted, it would severely embarrass the President on the eve of the summit with Secretary Gorbachev.

It could also be counterproductive. If the role of the United States as guarantor of the Geneva accords is put into abeyance until the Senate approves by a two-thirds majority vote, we run the risk of delaying the entire process.

By all accounts, both public and private, the Soviets are indeed implementing their withdrawal. I believe the adoption of this amendment, at this time, would be very unwise. One of its results would be that more Afghans would die. I urge my colleagues to support the floor manager's tabling motion.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, every one of us can take pleasure in marking the beginning of the Soviet withdrawal from Afghanistan. It is important to note that this is only a beginning, that the Soviets under the timetable agreed to have 9 months.

There was considerable concern that the Soviets might not withdraw fully; that, in fact, they might leave their troops in the northern provinces, above the Hindu Kush Mountains, where they can more safely occupy the territory of Afghanistan. I have no idea whether they are going to do that or not.

I think the best way to ensure against that, the best way to ensure the Soviets comply completely and on schedule is to keep the Afghan resistance well armed. That is the best insurance policy we can take out.

For, let us remember that the Soviets, notwithstanding all of the PR pictures of the last few days, are not withdrawing out of any noble sentiment. They have not gotten soft, after 9 years of slaughtering a million and a quarter Afghans, most of whom were civilians. They have not gone soft. They are leaving because they are no longer willing to pay the price of occupation exacted by the Afghan resistance.

The resistance has been able to exact that increasingly high cost, because they have been supplied with the wherewithal by various friendly parties.

So I simply reiterate, the best way to ensure the completion of this process, whose beginning was marked yesterday, this process of Soviet withdrawal from Afghanistan is to keep the resistance well armed.

On that point, Mr. President, there is considerable danger to the pipeline through which these weapons flow to the resistance. And those dangers arise out of the very Geneva agreements which the Senator from North Carolina is seeking to bring before the Senate that the Senate might pass its judgment on that agreement.

A month ago in Geneva, Secretary Shultz obligated the United States to act as a guarantor of several written agreements relative to the war in Afghanistan. These agreements arose out of, I guess, 6 or 7 years of negotiations sponsored by the United Nations. That sounds very legitimate, does it not?

When you say the United Nations sponsored negotiations which led to documents, which led to a signing ceremony, it sounds very legitimate. But the important point to remember is that there was not one single legitimate representative of the Afghan people present during even 1 day of those negotiations over many years.

The people who we have called legitimate represenatives of the Afghan people; namely, the Afghan resistance, were excluded from these talks which have such a vital bearing on the future of their country. Who was there representing Afghanistan but the very puppet government set up by the Soviet invaders and against whom we have been encouraging the resistance to fight, even at the cost of their own lives.

So there was our Secretary of State blessing an agreement reached, in the absence of the people whose cause we have embraced, and reached, instead, by a puppet government with absolutely no legitimacy at all except 120,000 Soviet troops armed with the latest aircraft, helicopters, tanks, and antipersonnel weapons which have been used without compunction, not only against combatants, but especially against the noncombatants—men and women, elderly and children, refugees, innocents wiped out, not by the tens of thousands, not by the hundreds of thousands, but, according to a study financed by the French Government 6 months ago, to the extent of 1.25 million, most of whom were civilians.

A million and a quarter dead people. Think of it, Mr. President. That has been the sacrifice of the Afghan people in their effort to throw out the foreign invader. A million and a quarter. It is almost incomprehensible It is even more incomprehensible when you measure it against a standard. When you apply the ratio of the combat deaths—I should not call them combat deaths. I should call them deaths because I do not want to imply these are the deaths of soldiers. These are mostly the deaths of persons not involved in combat.

When you apply that ratio, a million and a quarter of the Afghans, against the population of the United States, it works out to 16 or 17 million dead Americans. That is the price the Afghans have paid thus far—it is not over yet—in seeking to restore the independence of their country.

And who was representing the Afghan people who suffered so terribly at these United Nations-sponsored talks in Geneva? The resistance? No, the puppet government set up by 120,000 Soviet soldiers, that is who was representing Afghanistan.

Can anybody wonder why the resistance repudiated these agreements, repudiated the negotiations? Hardly any wonder at all. Who would not? We certainly would in their place.

The Senator visited and meet 5 weeks ago with six of the seven leaders of the parties and the deputy leader of the seventh. During a meeting, which ultimately lasted 3 hours, these leaders repeatedly pleaded with this Senator to try to stop the signing of these agreements—this was just a few days before the agreements were signed—saying, "Look, we weren't involved in the negotiations. These are illegitimate documents. But more than that, they put us, they put the resistance at a distinct disadvantage," and they do so for these two reasons: First, one of the agreements between the parties states that Pakistan will not interfere in the internal affairs of Afghanistan.

Sterile sounding enough, but what it means in this situation is that under the agreements, Pakistan is bound to stop arming the Afghan resistance. Take Pakistan out of the picture and it is impossible to provide assistance to the Afghan resistance because of geography.

The only way to get the stuff into the resistance is through Pakistan. If Pakistan were to comply with these agreements, as she is bound effective yesterday, the pipeline would be cut off immediately, the resistance would be progressively disarmed as they use up their ammunition in the next few months.

And what is the outcome? The Soviets win at the bargaining table with the help of the State Department what they could not succeed in winning through 9 years of merciless warfare against the elderly, the children, the men and the women of Afghanistan.

That is what happens under these agreements if Pakistan complies.

The State Department claims that they made everything all right by reading a unilateral statement at the conclusion of this signing. Remember, a unilateral statement is not part of the agreements. It is merely words on a piece of paper that was read by our representatives which say that as long as the Soviets continue to supply this Soviet-puppet government in Kabul that we are going to continue to supply the Afghan resistance.

Well, that is fine, except how do you do it if the pipeline is breached? How do you do it if Pakistan complies with this same very agreement? It is poppycock. It is nothing but hot air and hypocrisy. It is a lie.

We now have to depend on Pakistan violating this very agreement if we are to make good on the words of this unilateral statement and, more, if we are to make good on the statement of reassurance issued by President Reagan to the resistance on several occasions this year when he said that we would stand by them.

The Geneva agreements contain a lie, a contradiction, an hypocrisy, cynicism. There are many within the administration and within the Senate who, in private at least, have been highly critical of the State Department and of this administration for associating itself with this arrangement which has come out of Geneva.

So we put the resistance at a disadvantage in the sense that the pipeline to them remains open only if Pakistan violates the agreement. Believe, me, Pakistan, as the Senators will see in the weeks and months ahead, is going to come under enormous pressure to cease its violations form the Soviet Union, obviously, from India, probably, and from every other country that wants to make trouble.

If that is not bad enough, Pakistan, under its political system, is bound to have parliamentary elections sometime in the next 2 years or so. Sometime in the next 2 years, Pakistan has to have nationwide parliamentary elections. So in that context, with Pakistan coming under increasing pressure and criticism, not to mention KGB-supported terrorism within Pakistan, one has to worry about the integrity of that pipeline, that lifeline, the only lifeline on which the resistance depend and must depend for success.

Mr. SYMMS. Will the Senator yield for a question on that point?

Mr. HUMPHREY. Yes.

Mr. SYMMS. I thank the Senator for yielding. I want to say, Mr. President, I thank the Senator for the points he is making, which I totally concur with.

When I was in Pakistan, in January, I got the distinct impression from our people in the field, State Department employees, some of them military advisers, and others involved with the U.S. Government, that they shared the viewpoint the Senator and I are speaking of today, and that is that we should stay the course, we should not deviate from our current program, because it is working, and continue to sustain it.

Without mentioning the names of any people out there, did the Senator get the impression 5 weeks ago that they were fearful of the agreement that was about to be signed, that it was going to leave them with the rug jerked out from under them in what they had told people?

Mr. HUMPHREY. Mr. President, before I respond, let me ask for the yeas and nays on this amendment. For my part, I do not have a great deal more to say but I do want to have an opportunity to say it.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. HUMPHREY. Mr. President, the Senator from New Hampshire has the floor.

Mr. DIXON. I was going to ask if my friend from New Hampshire would yield for a moment for a question.

The PRESIDING OFFICER. Will the Senator yield for a question?

Mr. HUMPHREY. Can the Senator forbear for just a moment?

Mr. DIXON. Of course.

Mr. HUMPHREY. I would be happy to hear the Senator from Illinois.

Mr. DIXON. I just wanted to ask my good friend from New Hampshire whether it will require much more time to discuss this since a number of my distinguished colleagues want to repair to the Foreign Relations Committee Room and at the appropriate time I was to offer a motion to table.

Mr. HUMPHREY. Our foreign relations are badly in need of repair so I certainly will not hold up the Senate. Indeed, we might invite the Secretary of State to come in because he needs to hear this. He does not hear it from his sycophants down the road. But in any event, in answer to the Senator's question, this is not my amendment but speaking only for myself perhaps I can wind up in 5 minutes or so, not counting whatever my friend, Mr. SYMMS, uses.

The PRESIDING OFFICER. If the Senator from New Hampshire will withhold, the Senator from New Hampshire had requested the yeas and nays. The Chair was about to ask if there is a sufficient second when the Senator from Illinois requested permission to make an inquiry. Does the Senator from New Hampshire pursue the request for the yeas and nays?

Mr. HUMPHREY. I make that request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. I thank the Chair for its assistance.

To answer the question from the Senator from Idaho, yes, indeed, the resistance leaders were alarmed to a man, angry, resentful, for which I cannot blame them a bit.

Mr. SYMMS. These are American employees or leaders of the Mujahidin?

Mr. HUMPHREY. I am speaking of the Afghan resistance leaders, the political leadership with whom I met. Did I misunderstand the question?

Mr. SYMMS. I was at a meeting with Mohammad Khalis, Mr. President, if the Senator will yield, and in the course of this conversation the young man who represents the U.S. State Department, who lives in Peshawar, made the point to Khalis that I was speaking as a U.S. Senator who had a strong opinion, he was speaking as a member of the U.S. Government, but that his Government was not going to undercut, "sell-out," the Mujahidin. And Khalis, the leader of the Mujahidin was convinced in January that the superpowers would get together and cut a cozy little deal and leave these poor brave freedom fighters stranded in the field short of equipment and strung out with the powerful Soviet Union and a massive army there.

Now, what I am trying to get at, the Senator was there 5 weeks ago so that was in March or April. I want to know if the State Department people who are out there in the field shared the opinion that was being made back here at Foggy Bottom. That is the question I am trying to get at. Because I came out of Pakistan really proud of the Americans I met there who were representing the United States of America.

I wondered if they had compromised to where they are supporting what I think has the potential to be a disastrous agreement to snatch defeat from the jaws of victory in Afghanistan.

Mr. HUMPHREY. The answer is that I just do not recall, and if I did, I do not believe I would want to state in this Chamber if any subordinate in the State Department was opposing the party line, but certainly some have and still do express dismay and regret and horror at what the State Department has done.

Mr. President, the resistants are concerned on many counts. They were not involved in the negotiations. Indeed, the very puppet regime against which we have encouraged them to fight represented illegitimately the Afghan people at those talks.

The second point is that only if Pakistan flagrantly violates this agreement will the pipeline, on which they depend exclusively, remain open to the resistance.

The third point is that the State Department has permitted the Soviets to transform their public relations problem into our public relations problem, because now the Soviets under these agreements are perfectly free to resupply militarily and in every way, and as lavishly as they wish, this puppet regime in Kabul. There is not one word of restriction on the Soviets with respect to their propping up this puppet regime contained in these Geneva agreements.

On the other hand, as I pointed out on the side of the resistance, Pakistan is required to cease arming the resistance and only if Pakistan is willing to violate these agreements and withstand the pressure and the criticism can we keep the resistance armed.

Fourth, we put the Soviets in charge of our program. We have put Moscow in the driver's seat, because in this unilateral statement which was read at Geneva we pledged to cut off assistance to the Afghan freedom fighters if

the Soviets cut off assistance to this puppet regime.

And so here we have this 8-year program which friendly countries have provided the Afghan resistance with the wherewithal to throw the Soviet occupier out of Afghanistan, here we have it coming to a successful conclusion, and all the Soviets have to do to cut off the flow of arms to the Afghan resistance under this Geneva agreement is to claim that they have cut off aid to their puppet government, and then we are required to cut off aid to the Afghan resistance. It is a mess. It is disgraceful. It is a very dangerous development. In the long run, 6 months or more, time is now on the side of the Soviets, so we had better keep the resistance well armed that they can finish the job as quickly as possible.

Mr. President, at the very least this matter bears serious detailed examination by the Senate. I believe the State Department has pulled a fast one, and I hope the Senate will adopt the pending amendment so that these agreements will be carefully examined by the Senate.

Mr. DIXON and Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I did not want to foreclose my distinguished friend from Idaho if he has further remarks, because I was going to make very brief remarks and then move to table. Did my friend from Idaho have more he wanted to say?

Mr. SYMMS. I say to my friend I just wanted to make a couple or three more minutes of remarks.

Mr. DIXON. Then if it is all right with my friend from Idaho, I will withhold my brief closing remarks and motion to table until my friend has concluded.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I think the chairman of the Free Afghanistan Caucus, Senator HUMPHREY, has really framed the issue before the Senate. But I do think there are three of four points that need to be reemphasized today in this very important vote to send the right signal to the world.

No. 1, the reason the Soviet Army is withdrawing from Afghanistan is because they are being defeated on the field of battle by the mujaheddin who have been armed and supported by the United States and other countries in the world.

The Stinger missile completely changed the context and the strategy and tactics of the war. I think it should be noted, however, that Mr. Gorbachev, the great grandfather and friendly image to the Western media—and I note some people in this country somehow think he is a new person, and he may be new and we hope he is new, but I might say to my friends that the Soviet Union is supporting terrorism being aimed against the civilian population of Pakistan. There were 250 innocent Pakistanis killed in 1987, another 750-plus were wounded with bombs going off, and so forth.

Recently, these terrorists blew up a huge munitions yard where a great many of the supplies that we have spent a great deal of time, money, and effort to get to that position were exploded and detonated. Many valuable weapons that are needed by the Mujahedin, the freedom fighters, resistance fighters, to carry on the war have been lost because of State-supported terrorism backed by the Soviet Union.

I think it is interesting to note for the RECORD that we, the United States of America responded, correctly so, in this Senator's opinion not strongly enough, but at least we made a good-faith effort in the bombing of Tripoli and Benghazi, because the Libyans had been involved, caught red-handed and involved in State-supported terrorist acts.

Mr. President, the Soviet Union is now conducting state-supported terrorist acts against innocent people in Pakistan. They are trying to intimidate the Government of Pakistan. People like to say this is a Soviet Vietnam. This is not a Soviet Vietnam. In the Vietnam conflict the United States won the battle on the battlefield and lost the war here in Washington. What we are allowing the Soviet Union to do—if we do not stand firm and keep sending the supplies to the Mujahedin and give them plenty of supplies, adequate Stinger missiles so they can protect their troops from air threats—is to lose the battle on the battlefield but win the battle politically. Then we will be snatching defeat from the jaws of victory. I think it is a most important vote.

So I urge colleagues to support the Senator from New Hampsire and the Senator from North Carolina, vote with them on this issue, and vote against the tabling motion.

I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I believe this is another example of the attempt to fix something that is not broken. This agreement is a historic achievement. For the first time, Soviet forces are leaving a country they have occupied. The Mujahedin have achieved a military victory over the Soviet occupation forces. The Soviets have now begun their withdrawal.

One-half of the Soviets will be withdrawn by August 15, and the remainder within 9 months. Thus, the agreement is working.

Presidents frequently enter into executive agreements, as we all know, which are not referred to the Senate for advice and consent. There is no established legal principles setting forth a difference between an executive agreement and a treaty. Presidents have entered into thousands of executive agreements, some of them similar to this one.

So, Mr. President, there is nothing unusual about the arrangement here. There is no reason to require that this be submitted for advice and consent. More importantly, if it were submitted, it would destroy a very effective document that would otherwise achieve a historic result. In my opinion, Mr. President, if you want to stop those Soviet tanks in their tracks as they are leaving Afghanistan, you ought to support this amendment. If you want to bring peace to Afghanistan, you ought to support the motion to table which I am about to offer after concluding remarks by the distinguished manager.

In view of the fact that there is another committee meeting shortly, I move to table the amendment by the distinguished Senator from North Carolina and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, if the clerk will withhold, let me just inquire. I saw the Senator from North Carolina as I was leaving. He indicated he preferred this vote be delayed. Did he leave any such instructions on that on the floor?

I want to accommodate him. If he would prefer the vote occur after the capital punishment vote which would be after 4 o'clock, I would want to accommodate him.

Mr. SYMMS. If the Senator will yield, I have not received any specific instructions from what Senator HELMS wished. I am informed by his staff that they thought that would be more suitable to him. But he did not say anything to this Senator about it. So maybe that would be acceptable if there is no objection to it.

Mr. DIXON. May I say, if the Senator has no objection, there are a lot of amendments that could occur yet today. If we could dispose of this rollcall now, I had no request from the Senator from North Carolina.

Mr. SYMMS. I had no request. So let us vote.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, we have not been able to reach the Senator from North Carolina. Since a number of Senators are coming back for this rollcall vote and understand that it would occur now, I think the Senator from North Carolina will understand. We will hold the Panama amendment and set it aside temporarily until this vote occurs. We will vote on this one.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Vermont [Mr. STAFFORD], the Senator from Wyoming [Mr. WALLOP] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—63

Adams	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boschwitz	Gore	Packwood
Bradley	Graham	Pell
Breaux	Harkin	Proxmire
Bumpers	Hatfield	Pryor
Burdick	Heflin	Reid
Byrd	Hollings	Riegle
Chafee	Inouye	Roth
Chiles	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Danforth	Lautenberg	Simon
Daschle	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Lugar	Stennis
Domenici	Matsunaga	Weicker
Evans	Melcher	Wirth

NAYS—30

Armstrong	Hatch	Murkowski
Bond	Hecht	Nickles
Boren	Heinz	Pressler
Cochran	Helms	Quayle
D'Amato	Humphrey	Shelby
DeConcini	Karnes	Stevens
Dole	Kasten	Symms
Garn	McCain	Thurmond
Gramm	McClure	Trible
Grassley	McConnell	Warner

NOT VOTING—7

Biden	Rockefeller	Wilson
Durenberger	Stafford	
Metzenbaum	Wallop	

So the motion to table the amendment (No. 2086) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, what will be the pending business at 3 o'clock?

The PRESIDING OFFICER. The pending business at 3 o'clock will be Senator D'AMATO's amendment relative to the death penalty.

Mr. NUNN. Mr. President, what will be the pending business and what will be the status of the amendment relating to Panama by Senator HELMS following the conclusion of the D'Amato tabling motion.

The PRESIDING OFFICER. The amendment by the Senator from North Carolina is the pending business before the Senate at this time and will be until 3 o'clock and will be at the conclusion of the consideration of the D'Amato amendment unless previously disposed of.

Mr. NUNN. Mr. President, I ask unanimous consent that we have 2 minutes that will not be charged against the D'Amato amendment on either side to handle an amendment of the Senator from Florida notwithstanding the previous unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia?

Mr. HUMPHREY. Mr. President, reserving the right to object, I conferred with Senator WARNER a few moments ago about the amendment, and I had the impression he had some concerns.

Mr. NUNN. Mr. President, I withdraw the unanimous-consent request. I understood it was cleared on both sides. I withdraw the request.

The PRESIDING OFFICER. The request for unanimous consent having been withdrawn, the pending business before the Senate is the Helms amendment on Panama.

Is there further debate on the amendment?

Mr. DIXON. What is the pending business?

The PRESIDING OFFICER. The pending business until 3 o'clock is the Helms amendment on Panama.

Mr. DIXON. Mr. President, may I say that this side will have an amendment to that amendment, a second-degree amendment, unless we can work this out. I ask unanimous consent that it be set aside.

AMENDMENT NO. 2071

The PRESIDING OFFICER. The hour of 3 o'clock having now arrived, the pending business before the Senate is the amendment by the Senator from New York [Mr. D'AMATO].

Who yields time?

There is 1 hour, equally divided.

Mr. McCAIN. Mr. President, how much time does the Senator from New York want?

Mr. D'AMATO. Mr. President, I ask unanimous consent, with the consent of the acting manager on our side of the bill, that I be permitted to allocate the half-hour, there being 1 hour divided equally between those who support the amendment and those who oppose it.

The PRESIDING OFFICER. Under the agreement, the Senator from New York has the authority to allocate 30 minutes of the 1 hour debate time on this issue. The time in opposition belongs to the manager on the majority side if he opposes the amendment.

Mr. NUNN. Mr. President, I would suggest that the managers of the bill in this case would not be the best ones to control the opposition to the amendment. So I would ask the majority leader to consider designating the Senator from Michigan, or someone who is in opposition. I would think the Senator from Michigan would be the appropriate one to control the time in opposition.

Mr. BYRD. I thank the Senator from Georgia.

Mr. President, I designate the distinguished Senator from Michigan, Mr. LEVIN, to control the 30 minutes on this side.

The PRESIDING OFFICER. Is there objection to the designation of the Senator from Michigan to control time for the opposition? Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the first- and second-degree amendment presently pending: Mr. SIMPSON, Mr. McCAIN, Mr. KASTEN, Mr. McCONNELL, Mr. SHELBY, and Mr. HATCH.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, one of the areas of the drug epidemic that we have overlooked is the area of punishment. This Senator is not going to suggest, as some might editorialize, that any one punishment, no matter how strict it is, is going to end the drug epidemic. That would be naive.

As a matter of fact, Mr. President, let me say that I took some offense, some umbrage, at the suggestion that this body had the naivete to suggest that, by involving the military in attempting to interdict and in certain cases make arrests of the drug planes that are coming in and the boats that are bringing these cargoes of death and destruction, that would end the epidemic. That is nonsense.

Mr. President, as important as education is—and it is important and the

cornerstone—and rehabilitation, which is necessary, it is equally important that people understand that if they are going to savage our people by supporting drugs, if they are going to take the lives of others with reckless abandon, as they have, if they are going to strike down our police officers, be they Federal, State, or local, as they have with increasing impunity, that there is another side to this, and that is called punishment.

Mr. President, I think we have to find a clearer message for those who deal in drugs, that if you kill someone while dealing with drugs, if you order a death, then you can and you will face the death penalty under certain prescribed standards, which this amendment adheres to. And that is the toughest penalty that society can mete out. This epidemic calls for nothing less than the toughest.

Mr. President, the death-dealing drug lords fear no one today—no one. They take on our police officers. They literally machinegun our neighborhoods, killing innocent people, because they have total disdain for human life.

Right now, the only thing that the death-dealing drug lords will ever fear is death itself. That is why, Mr. President, unfortunately we have to move with swiftness to see to it that we do have a death penalty as it relates to the drug kingpins who order the assassination of police officers or who order a hit and who supervise a criminal conspiracy, a continuing criminal enterprise, which is defined in section 21 United States Code 848.

Because the penalties are so severe, the continuing criminal drug enterprise statute requires five stringent elements of proof for conviction:

First, the defendant's conduct must constitute a felony violation of narcotics laws.

Second, that conduct must take place as a continuing series of violations of the Federal narcotics laws.

Third, the defendant must undertake this activity in concert with five or more people.

Fourth, the defendant must act as the organizer, supervisor, or manager, known as the kingpin, of this criminal enterprise.

Fifth, the defendant must obtain substantial income or resources from this enterprise.

The amendment also provides that:

> Any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or punishment for, an act that violates the Controlled Substances Act, who intentionally, or with reckless indifference to human life—

Just last week we read the case in New York where tragically a 20-year-old woman was killed because the drug gangs did not care who in their neighborhood was exposed to their shooting—

> with reckless indifference to human life, kills or participates substantially in the killing of any Federal, State, of local law enforcement officer engaged in, or on account of, the performance of such officer's official duties, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

This amendment has been carefully crafted to withstand constitutional scrutiny under recent Supreme Court rulings. For the death penalty to be applied, the Supreme Court held that the killer must have had specific intent to kill or have had acted with reckless indifference to human life and must have actually killed or must have been a substantial participant in the activity leading to the killing.

Mr. President, there are a number of reasons to support capital punishment. Let me simply suggest to you that it does deter murder.

Let me quote one case. After the shooting of Rosa Velez to her death, in my State, in her home in Brooklyn, NY, when the perpetrator was caught in the act of burglary, this is what he said:

> Yeah, I shot her. She knew me and I knew I wouldn't go to the chair.

A law that actually encourages criminals like Louis Vera to kill their victims, I suggest, must be changed, and particularly as it relates to the dealers of death and destruction in a continuing criminal drug enterprise, the drug lords and those who work for them and those who demonstrate this ruthlessness of taking over neighborhoods, of threatening people with death, of assassinating even police officers as we have recently seen too often, too tragically.

Mr. President, to satisfy the constitutional requirements for the imposition of capital punishment, the amendment requires that there be advanced notice of the Government's intention to seek the death penalty. The amendment provides for consideration of specific mitigating and aggravating factors. The burden of proof regarding such aggravating factors rests upon the Government, while the defendant bears the burden of proof regarding mitigating factors. The death penalty may be imposed only by the unanimous vote of the jury.

I would suggest that that is as it should be. I do not think that any one of us would want to have that burden of saying that he or she alone would make that decision, but by the unanimous vote of the jury.

Let us discuss how this legislation would work and what type of cases this legislation could potentially cover.

We have heard much, recently, about the "posses" and the gangs involved in drug dealing and the violence that accompanies that involvement. Under the first part of our amendment if a member of a drug gang is involved in a continuing criminal enterprise and kills an individual or participates substantially in the killing of an individual, he can be subjected to the death penalty.

It must also be proven that he had intent to kill or that he had reckless disregard for human life. These same rules would apply to gang members, major narcotic dealers or anyone else engaged in or working in furtherance of a continuing drug enterprise.

Part 2 of our amendment provides additional protection for law enforcement officers, including Federal, State, FBI, Customs agents, police and sheriffs as well as prosecutors, judges, and correctional officers.

This provision is introduced in response to killings that we have seen take place, whether they be in California or New York or, all too often, throughout many parts of our country. Our officers are needlessly, senselessly, with reckless abandonment shot down.

The critical need for this legislation is highlighted by the recent assassination of Edward Byrne, a 22-year old New York City police officer who was gunned down while guarding the home of a witness in a drug-related prosecution.

As Edward Byrne sat in that patrol car at 3:40 in the morning, Mr. President, the killers approached the car, drew their guns, Officer Byrne absolutely unaware that anyone was there, and shot him in the head. This is what it was reported that one of those assassins said. He said: "I could see his blue eyes."

Mr. President, is anyone here prepared to say that someone who commits that kind of a cold-blooded murder as a result of a continuing drug enterprise to demonstrate to the law authorities that they were immune, that they were fearless, that that person should not be subjected to the death penalty? That a jury of his peers should not look into that case to examine how it is that someone would take the life of a 22-year-old police officer in his car?

I would suggest to you it is not the place of this body to act as judge and jury, but to allow the process of justice to go forward and to allow the jury of 12 of our peers, to make that decision.

If there are any mitigating circumstances, then let the defendant offer what those proofs must be.

Mr. President, I hope we adopt this amendment. It is long overdue. The American people are entitled to this protection and they are sick and tired of the protections that are afforded to those who are killing, maiming, and destroying our neighborhoods, our children, our police officers. Yes, tearing up the very fabric of our society.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan controls the time.

Who yields time? If no party yields time, the Chair will charge time equally to both sides.

The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, first, I would make a parliamentary inquiry of the Chair as to whether or not the underlying amendment is germane to the bill.

The PRESIDING OFFICER. The Chair will consult.

In response to the Senator's inquiry the Chair will state, as the Senator from Michigan knows, there is no germaneness requirement extant at this time under the rules. The Chair should also state, although he has not had an opportunity to review the amendment in detail, he is not aware of any germaneness question that occurs at this point in discussions.

Mr. LEVIN. I am aware that there is no germaneness requirement extant at this time. My parliamentary inquiry is whether or not this underlying amendment is germane to the bill. I am making simply a parliamentary inquiry.

The PRESIDING OFFICER. Again, the Chair must advise the Senator from Michigan that the Chair is not aware of any germaneness issue arising at this time under the amendment. If such question arises, it would be, in the opinion of the Chair, up to the proponent of the amendment to make the case for germaneness.

Mr. LEVIN. Mr. President, as I checked with the Parliamentarian, it is my understanding that there is no language in this bill which he is aware of, to which the underlying amendment is germane. That is my understanding.

I understand there is no requirement of germaneness at this time. I am aware of that. I am simply making inquiry of the Chair as to whether or not the Chair is aware of any underlying language.

The PRESIDING OFFICER. I think the Senator is correct with his statement at this time.

Mr. LEVIN. I thank the Chair.

Mr. President, it is no secret in this body that I oppose capital punishment for a number of reasons, not the least of which is you cannot correct your mistakes. With the kind of hideous and obscene crimes which occur that all of us are aware of, whether they are drug related or not, each and every one of us wishes to deter those crimes. Some of us believe capital punishment deters. Others do not. I am one who has checked the statistics on deterrence and would state again, as I have before, that the States, in general, which have capital punishment have, on the average, higher murder rates than those States without capital punishment.

So, assuming or presuming that capital punishment deterred, one would think that the homicide rate in those States that have capital punishment would be lower than that in the States without it, but as a matter of fact, that is not so.

As a matter of fact, it is also the case that other countries in the Western World, in particular, that do not have capital punishment, have lower homicide rates than those States that do have capital punishment in this country. Many States do have capital punishment. Their homicide rates almost invariably are higher than that in those countries of the Western World that do not have capital punishment.

But the main reason that I have stated my opposition to capital punishment is that you cannot correct your mistakes. Over and over again we have convicted wrong people of crimes. We have executed wrong people for crimes.

Not too long ago, there is a story that came out of Florida about Joseph Green Brown, somebody who had been on death row for a long period of time. About 15 hours before he was to die one time, as he sat in a death watch cell 30 feet from the electric chair, a Federal judge issues an order staying the execution. He actually was fit for his burial suit and that tended to have an effect, obviously, on him.

Then it turned out a few years later that he was released because there was inadequate evidence against him. The court released him on the ground that he never should have been convicted to begin with. And his lawyers said that this case really ought to make people take pause.

It is possible that a person who is innocent can be sentenced to death and very likely could be executed. Referring to a survey by two people at Tufts University and the University of Florida, they said that 343 people have been wrongfully convicted of offenses punishable by death in this country this century alone, and, according to that study, 25 were executed.

Mistakes are made in this system, and when a mistake is made in a capital case, when capital punishment has been inflicted, you cannot correct that mistake. So that is the reason why other people have opposed capital punishment.

I am not going to spend the few minutes we have this afternoon that is allocated to this issue to try to persuade anybody relative to the merits or demerits of capital punishment. Most of us have made up our minds.

What I would like to do is spend a few minutes on this amendment that is pending before us.

My friend from New York has talked about drug dealers and how they deal out death. Let me tell you, they do. I live in a town where too many deaths are caused by drugs and related to drugs. But I asked our police commissioner as to who are the victims of these drug-related homicides, whether or not, for the most part, the victims of the drug-related homicides are drug dealers or whether or not they are innocent people, including police officers.

Here is what he wrote:

> A survey of drug-related homicides in the city of Detroit indicates that the overwhelming majority of these victims are drug traffickers.

And so when we face the amendment of our friend from New York, what we have to ask is who are we trying to protect in this kind of amendment?

If, in fact, it is true, as it is in my home town, and I think in most places, that the majority of victims of drug-related homicides are drug dealers, not innocents, not police officers, but drug dealers, then we have an amendment which ends up protecting drug dealers to the same extent it protects police officers and to the same extent it protects innocent people.

If you believe that capital punishment deters, despite all the statistics to the contrary, but if you really believe that, then what are we trying to deter here, because this amendment is not limited to cases where victims are police officers or victims are innocent people? This amendment treats drug dealers who are victims exactly as it treats police officers who are victims and exactly as it treats innocent people who are victims.

It makes no difference who the victim of a drug-related homicide is under this amendment. Capital punishment is an option in both cases equally. And what kind of society do we have if we have on our books a law where the punishment that is available in a crime will apply equally when the victim of that crime is a drug dealer than when the victim of that crime is an innocent person or a police officer?

This amendment makes no difference, and the statistics, again, at least in my hometown, are that most of the victims of these crimes are drug dealers.

So when the sponsors of this amendment talk about drug dealers dealing out death, they could not be more right. I live with too much of that where I come from. But it is those drug dealers themselves who are, for the most part, the victims of the drug-related homicides. Most people where I come from do not want to treat a crime whose victim is a drug dealer in the same way as a crime whose victim is a police officer. This amendment treats those crimes in the same way.

And so then it raises the question just who exactly are we seeking to pro-

tect? This amendment is improperly drafted for many reasons. I am not going to go into them now because I want to save most of our time for other speakers as well. This is an amendment that should be debated at length because, again, it would, for I believe the first or perhaps second time, place on the books a Federal law, capital punishment. It does so in an area, where it seems to me, we have a very serious problem, and that is drugs. We ought to try to deter it. That is clear.

But the question is whether this amendment is either properly drawn or properly targeted to the class of people that we are trying to deter.

As a matter of fact, these people who deal out death every day are more likely to suffer death in the course of their activity than they are by the addition of a new penalty to the Federal books. The likelihood is far, far greater that death will come to a drug dealer because of his activity than because of the presence of capital punishment as an option on the Federal lawbooks.

Yet they persist in that activity anyway despite the present likelihood or possibility that death will result to them because of their current activity.

If a deterrent of greater certainty, which is they will be killed during a drug-related activity, is not sufficient to deter them now, of course the question then arises, how will a deterrent of lesser certainty which is the death penalty on a Federal statute book, possibly add anything to what exists?

So I happen to agree with my friend from New York in terms of the feelings about drug dealers and trying to deter drugs. We both come from communities where there is too much of it, and all of us know the terror which has been visited upon our communities and neighborhoods.

The question, though, is how do we deter it and how do we punish it? When it comes to deterrence, the statistics do not bear out the argument of the proponents of capital punishment. But if you believe they do, then that is a good reason for using your deterrent in the case that you most want to deter, and that is the case where an innocent person or a police officer or a law enforcement officer is the victim. That is a different situation from where a drug dealer is the victim of another drug dealer.

Let us not throw those situations in the same boat. We should treat those differently. This society should treat the killing of a drug dealer by another drug dealer differently than it treats the killing of a police officer by a drug dealer. This amendment does not. For that and many other reasons, it is flawed.

I again think that we should have significant debate on this amendment before this amendment is adopted.

Mr. President, I yield the floor.

Mr. D'AMATO. Mr. President, I yield 4 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, I rise in strong support of this amendment. As you will recall, the other night we put our armed services into the war against drugs. I think we ought to begin by noting that if, in fact, we are going to have a war against drugs, that there is no quicker way to show we are serious about it than by instituting the death penalty. A death penalty for kingpins in the drug industry, who order the killing of people or drug dealers, who kill our police officers. It seems to me that parents of America and the kinfolks of our soldiers, sailors, airmen, and marines, who are going to be put in the position of danger, have every right to ask if we are going to put our citizens' soldiers in the position of having to apprehend drug dealers, should we not have a death penalty if one of them is killed by a drug dealer?

So I think the question here is how serious are we about this problem? I think we should be very serious. If we are not willing to impose the death penalty on kingpin drug dealers, who order the murder of our police officers or our citizens' soldiers, then I submit we are not very serious about this war, and we are unlikely to win this war.

I think the truth is that we are going to have to get a lot more serious before we start a war on drugs. It is very easy to spend money. It is very easy to commit the military to something, but it is just like throwing the first blow in a fight. The first blow is always the easiest one, especially if you are throwing it. It usually gets a lot tougher after that.

I think this is the first time we have had a real test of whether we are serious about this war on drugs. If we are not serious enough to use our strongest penalty for people who commit murder in the carrying out of drug transactions, then really I doubt that we are serious at all. I think we are going to have to get a lot more serious, Mr. President, if we are going to win that war. I think we need to adopt this amendment today. I think we are going to have to eliminate this absurd situation where the person selling the drugs is viewed as a criminal, which clearly he is, but the person buying the drugs, an equal partner in the transaction, is viewed as a victim. Clearly the buyers may be victims, but they too are victimizing society by creating a market for drugs which creates the smuggling industry, that is preying on the health and safety and happiness and lives of our children.

I do not think this amendment means we are going to win the war, but I do think it means we are declaring war on the drug industry. I think it is imperative that if we are going to put our military personnel in danger, we have the strongest possible deterrent to protect them. Quite frankly, I think a drug pusher or drug dealer, who murders a police officer ought to be put to death, and I believe the majority of the American people share that conclusion. I am confident, if they had an opportunity, they would vote for this amendment. They do not, but we do. I hope that the vast majority of Senators will vote for this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank my distinguished friend from New York for offering this amendment and his continued leadership.

I say to the Senator from Michigan, we have debated this issue before and there is nobody who has been a stronger law enforcement Senator. He has put forth some tough penalties and worked hard in the drug area, but there just happens to be a dispute as to the necessity and effectiveness of this particular legislation.

In order to further strengthen our law enforcement efforts against those who deal in illegal drugs, I rise to support the amendment offered by the Senator from New York. He has worked tirelessly in the area of strong legislation not only in this bill but many other bills. In fact, Senator D'AMATO is a cosponsor with some 73 others of the Antidrug Abuse Act of 1988. Because of apprehensions and concerns raised by several of our colleagues, we decided it would be best if we did not include the death penalty in the Antidrug Abuse Act of 1988, not because there was any softness on the part of those of us who share the same view but because we wanted to move forward with law enforcement, with apprehension, at the source countries and with education and rehabilitation and prison expansion. But I believe the D'Amato death penalty amendment will provide the kind of deterrent that will truly send a message to the drug traffickers throughout the world that the United States takes this problem very seriously, as the Senator from Texas just pointed out, and we are ready to deal in a serious manner with this problem. Those who deal in illicit drugs have demonstrated total disregard for human life. The Jamaican gangs, who call themselves posses, taken from the old Wild West movies, have taken control of the crack trade in the United States today. They are better armed than our

police, and it is not unusual to see them with sophisticated weapons, Ak-47's and Uzi machineguns. We have seen time and time again through the Alcohol, Tobacco, and Firearms Agency, the horrendous problem and the amount of death that they have brought, cold-blooded murders in the streets of our cities. Fortunately, my State has not witnessed it yet, but it is not immune, by any means. They are responsible for over 600 murders as a result of drugs, and yet we have no death penalty for these ourtrageous bandits.

Let me provide an example from Arizona of the brutality and ruthlessness of the drug dealers. Witnesses recently testified in Tucson that a 17-year-old Tucson high school student, a very good student, by the way, was murdered because he owed the alleged killer $2 million and four kilos of cocaine. The 18-year-old suspect in the case told detectives that he put a wire around the victim's neck and strangled him while two of his cohorts beat him. To that man, do we want to say, "Well, we will just send you through the regular system so you can be paroled. At 18, you will be back out on the street in 4 or 5 years."

Two years ago, when the Senate was working on the antidrug bill of 1986, the Senate refused to vote directly on the death penalty amendment for drug traffickers and instead we did a procedural sidestep. I voted against tabling then and if we should have a motion to table today, I urge my colleagues not to support it.

Let us pass this amendment. Let us institute a death penalty. This bill has a lot of carefully drawn procedures. It is not just going to be handed out like tissue paper at celebration. This is a serious matter. Procedures are set out which require separate hearings, notice of those hearings or amendments to the notice of hearing, and, if a person pleads guilty, there be a jury empaneled and the jury must consider certain mitigating circumstances before they can conclude that a death penalty is warranted. This is after a full jury trial or a plea of guilty in a case.

The American people have consistently demonstrated in opinion polls time and time again, more than 80 percent of my constituents, they are in favor of the death penalty. Some argue that the death penalty would not be good because there would be mistakes. Unfortunately, there are mistakes and nobody can deny those mistakes, but there is nothing more that can humanly be done than this bill provides in the procedures to minimize and hopefully eliminate any mistakes.

How far are we going to go? Are we going to permit this kind of death to continue and not have a price that is equal to the kind of killings that are being committed?

I thank the Chair and I thank my good friend from New York.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I will be happy to yield 5 minutes to my friend.

Mr. HATFIELD. Mr. President, I rise in opposition to the amendment and am struck by the irony of debating a death penalty amendment to a military spending bill. No one doubts that drug trafficking and drug abuse have become this decade's most severe domestic and international social problem. Every aspect to our world is affected by drugs, from the conduct of foreign relations to the safety of our streets.

We all support efforts to combat this crisis, as evidenced by passage of the 1986 drug bill and the recent introduction of the Omnibus Anti-Drug Abuse Act of 1988. Our budget resolution was amended, by a unanimous vote, to provide an additional $2.4 billion in budget authority and $1.4 billion in outlays for fiscal year 1989 to address this problem.

Mr. President, in spite of these efforts, the drug problem continues to get worse. Our frustration is evident, as is the concern of our citizens. But we must not let our heightened sense of alarm blind us to the realities of the issue before us: First, sentence of death has not been proven a successful deterrent to violent criminals. We only have to go back in our history to Elizabethan England to find that the greatest source for pickpockets was at the public hanging for pickpocketing, second, the sentence of death has been handed out in such an arbitrary manner that it perverts even the most rudimentary notion of justice, and third, the sentence of death is an inappropriate response to the drug problem or our Nation's malfunctioning criminal justice system.

In the short time I have today, I will not address those points. They have been touched upon by Senator LEVIN, and others. Needless to say, if the tabling motion fails, I will be prepared to discuss those arguments in some detail and at some length.

Those technical arguments in opposition are secondary to my belief that the death penalty is fundamentally inequitable and that it brutalizes the honored values we hold dear in this society—foremost of which is the value of human life.

Mr. President, we live in a world of constant danger. All of us long to live our lives in peace. As Americans, we have a rich history as peace seekers and peacemakers. We long to rid the world and our society of the threat of war and violence, and to find some way to reduce the tension between the superpowers that keeps this world an impulse away from nuclear holocaust. Certainly it is this desire for peace that led to the signing of the INF Treaty, soon to come before this body for debate.

But those proclamations for peace are hypocritical. Peace is not possible abroad when there is violence at home. We will never be at peace with any country until we are at peace with ourselves; and we will never be at peace with ourselves until we cease destroying life and cease enhancing our capabilities to exterminate all life.

The resurgence of the use of capital punishment is a troubling sign, and a symptom of a deeper problem. This get tough on drugs frenzy is a reflection of a mean spiritedness growing throughout America. Sparked by the frustration over the growth in drug trafficking and drug-related crime and killings, this new mean spirit renounces reconciliation and, instead, embraces confrontation; it responds to violence by engaging in violence; it condones the taking of life as a means of protecting life.

During my 21 year tenure of service in this body, I have repeatedly confronted this issue. Legislation to establish a Federal death penalty has been pending in the Senate since the 93d Congress. Each time the issue has been debated, I have carefully listened to the arguments of the proponents, and remained unconvinced.

To me, the death penalty is no different from abortion or war or any other governmentally sanctioned form of killing. Whether these acts claim justification in shifting conceptions of morality, political ideology, or criminal justice, these acts are wrong.

We sit in this Chamber and debate issues involving the sanctity of life, and we do so far removed from the battlefields, abortion tables, and execution chambers. We lose ourselves in a maze of carefully crafted arguments; and in the process, we distance ourselves from life entirely, deluding ourselves into believing we can understand life and human behavior through an elaborate process of intellectualization and abstract debate. Well, Mr. President, we cannot.

In the case of the death penalty, this tendency to insulate ourselves from the implications of our decisions is readily apparent. The antiseptic term "capital punishment" is substituted from the term "public execution" or "State-sanctioned killing." The executions themselves are conducted in cloak-and-dagger secrecy, with elaborate phone hookups to the Governor and last-second court appeals providing the impression that the Government is about to do something that it would prefer not to do. I was Governor of Oregon two decades ago and participated in the process—

the horrible memory of that experience remains fresh to this very day.

The inescapable conclusion from that experience is that killing a criminal who killed an innocent person serves only to perpetuate a circle of violence and hate and performs no function worthy of civilized government. Instead of embarking upon the high road which sustains life, the death penalty drags along the low road of vengeance, of eye for an eye retribution, or cold bloodletting and it cheapens the sanctity of life.

Then, as now, Mr. President, I believe the death penalty to be immoral, unconstitutional, and outside the legitimate authority of government and I urge my colleagues to support the motion to table the amendment.

I thank the Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I yield 3 minutes to the distinguished Senator from South Carolina, Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina Mr. THURMOND is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I rise in support of the first and second degree amendments offered by Senators D'AMATO and WILSON which authorize the death penalty for drug-related murder and establishes constitutional procedures for the imposition of the death penalty for this offense. I commend them for offering this bill.

As we have witnessed over the past few years, drugs have become a big business. Drug trafficking and violent crime—especially murder—are often intertwined. These amendments would provide for the imposition of the death penalty against the drug kingpin as well as any other individual in the drug organization who commits murder. As well, these amendments would provide for the death penalty for a person who violates the controlled substances laws and kills a Federal, State or local law enforcement officer. People involved in the drug business often have no regard for human life and kill to further their interest. It is intolerable that in our own country, law enforcement officers and other innocent people have become victims of these violent killers. The death penalty for these offenses is both an appropriate and necessary penalty.

Someone said that it is not a deterrent. From the experience I have had in practicing law and as a judge, trial judge, it is a deterrent, a strong deterrent.

These amendments comport with the constitutional requirements that have been outlined by the Supreme Court. These amendments set up a bifurcated process which the factfinder must follow when determining whether a sentence of death is justified. This process consists of a hearing to determine the guilt or innocence of the defendant, and a second hearing to determine whether to impose the death penalty on a guilty defendant.

As my colleagues are aware, I have strongly supported the death penalty for many years. On the first day of this Congress, I introduced S. 277 which establishes constitutional procedures for the imposition of the death penalty for those Federal crimes for which this penalty is currently authorized such as murder, treason, and espionage. Further my bill authorizes the death penalty for an attempted assassination of the President as well as murder committed by a Federal prisoner while serving a life sentence. Last Congress, the Judiciary Committee reported a bill similar to S. 277. In the 98th Congress, a similar bill passed the Senate by a vote of 63 to 32. Unfortunately in the year and a half since I introduced S. 277, there has been no action on this bill or the seven other death penalty bills currently pending in the Judiciary Committee.

These amendments that are before us today are similar to a provision that was approved by the House and included in the omnibus drug bill of 1986. However, as my colleagues will remember, the Senate did not approve that provision. I believe that it is appropriate to act on this issue now. Although these amendments are not as broad as the bill that I introduced, it is a step toward the full implementation of our death penalty laws. I strongly urge my colleagues to support these death penalty amendments and oppose the motion to table.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 3 minutes to the distinguished Senator from Utah.

Mr. HATCH. I thank the Senator.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH, is recognized for 3 minutes.

Mr. HATCH. I want to thank my distinguished colleague from New York and of course Senator DECONCINI, the senior Senator from Arizona, Senator WILSON, and others who are responsible for this amendment because all this amendment does is says purely and simply that the Federal death penalty is going to be provided for drug kingpins who order the killing of someone; any person who commits that killing because that has to be premeditated; anyone who demonstrates a "reckless indifference for human life" who kills or participates substantially in the killing of someone in connection with the continuing criminal drug enterprise; anyone who demonstrates a "reckless indifference for human life" who kills or participates substantially in the killing of a law enforcement officer in connection with a drug transaction—that is an officer who is shot during a shootout; and anyone involved in a drug transaction who kills a law enforcement officer.

Mr. President, we are talking about human lives here. We are talking about human life and decent living in our society. There is a constant undertaking by these people who have such an indifference to human life, and to human suffering. We are talking about scumbags who exploit the weakness of the weak in our society, who are after our children and destroying them. We are talking about deterrence of people like that.

I know one thing: if the death penalty becomes the law in these particular areas, it is going to be a terrific deterrence to those who would go about exploiting the weakness of our youth and of others in our society who are weak, who are likely to partake of the illegal influences that they bring to them.

We are talking about heinous crime. We are talking about heinous criminal conduct. In all honesty, capital punishment is society's ultimate recognition of the sanctity of human life.

Mr. President, capital punishment is our society's ultimate recognition of the sanctity of human life. The Declaration of Independence clarified that governments are instituted to protect inalienable rights to life and liberty. Capital punishment is our Government's ultimate sanction and may be the only way to make some heinous crimes unthinkable. As Walter Berns, a leading student on this matter, has observed, criminal law makes a moral statement when it punishes. Ironically, it is only through application of the sanction of capital punishment that civilized society is able to express the deep reverence that it places upon human life.

DETERRENCE

It is important, and I believe essential, to keep in mind that the Anglo-American legal system is based upon the belief in the sanctity, the worth, and the value of one human life. Thus, if the death penalty deters merely one would-be murderer—let alone more than one—and saves but one innocent potential victim, then it is morally and legally justified.

While there is much debate as to whether the death penalty deters murder, I am in agreement with those studies which conclude that the death penalty does operate as an effective deterrent for some crimes involving premeditation and calculation, such as murder for hire.

In addition, great weight must be placed on the experience of the law enforcement officials—particularly those who deal frequently with murderers and potential murderers. The

vast majority of these officials, based on their professional experience, continue to favor the retention of the death penalty as a deterrent to violent crime. Moreover, we should keep in mind that those who are, in fact, deterred by the threat of the death penalty and do not commit murder are never included in statistical data. In the words of the prominent author and criminologist, Charles E. Sliberman, "Murder is so heinous a crime that only the most extreme punishment we possess can uphold the moral code."

In 1985, a Gallup poll revealed that 72 percent of the general public approved of the death penalty. The newspaper USA Today, in a later report, carried the results of a national poll which showed that 75 percent of all adult Americans, three-fourths of the general population over 21 years of age, agreed with the death penalty. In 1984, 36 States had capital punishment statutes. Today in 1987, 38 States have capital punishment statutes. Clearly, the majority of Americans and their elected representative are behind the application of capital punishment for those who are convicted of grievous capital offenses.

CONSTITUTIONALITY

The need to establish a constitutional procedure for the imposition of the death penalty is required by a series of Supreme Court cases starting with Furman versus. Georgia in 1972. It is important to note that these cases never held that the death penalty itself is unconsitutional; they merely found that the penalty was not accompanied by sufficient constitutional safeguards. These decisions require legislative guidance before the penalty can be imposed. These amendments meet the challenge of Furman of guided discretion based on rational criteria.

The key cases relating to the constitutionality of the death penalty are *Gregg* v. *Georgia,* 428 U.S. 153 (1976), and *Coker* v. *Georgia,* 433 U.S. 584 (1978). Under both cases, a punishment will be deemed excessive and thus unconstitutional if it "first, makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering; or second, is grossly out of proportion to the severity of the crime." *Coker* v. *Georgia,* 433 U.S. 584, 592. Attention must be paid, according to the decision, to "history, precedent, legislative attitudes, and the response of juries reflected in their sentencing decisions . . ." It is worth noting that Justice Powell, in his Coker dissent, offers a test for constitutionality which centers on society's "evolving standards of decency, particularly legislative enactments and the responses of the juries in capital cases." *Coker* v. *Georgia,* at 603. What this means is that the nature of the act itself should be taken into account and measured against the prevailing norms of society. The key seems to be proportionality. The Greg court did not specifically hold that the death penalty for armed robbery was unconstitutional, but it did assert that excessive or disproportionate penalties violated basic constitutional standards. Thus, capital punishment imposed for a drug-related murder under amendment Nos. 2070 and 2071 are within the bounds of constitutional permissibility, if it meets the societal norm standard and does not offend the proportionality principle.

POSSIBILITY OF ERROR

These amendments establish every conceivable procedure to minimize the chance of error. Admittedly, any human institution carries with it the possibility of error. Yet the danger of miscarriage of justice must be weighed against the far greater evils for which the death penalty aims to provide protective remedies. In this case, the procedures outlined in these amendments employs a system that reduces to the minimum the possibility of error; now we need the self-confidence to rely on that system. The protection to society afforded by the death penalty warrants our efforts to proceed.

FELONY MURDER AND CAPITAL PUNISHMENT

Critics of the death penalty have erroneously asserted that the felony murder rule is a narrow and highly restrictive rule which eliminates, among other things, any proximate causation from actions which directly results in the murder of someone who dies from an act which is linked to the death by a causal chain. *Edmund* v. *Florida,* 458 U.S. 782 (1981), sustained the felony murder rule. The Edmund court focused on the element that the defendant intended that lethal force be used in the commission of the capital offense. The test laid down by opinion for felony murder is that the defendant intended "that a killing take place or that lethal force" would be employed. In other words, for a felony murder conviction, it must be proved beyond a reasonable doubt that the defendant intended to kill the victim, that the defendant intended that the victim be killed, or that the defendant intended the lethal force used in the commission of the offense would result in a homicide. Scienter, or knowledge, is an essential element in applying these tests. Moreover, according to prevailing criminal law in most state jurisdictions, if the defendant action was so reckless, wanton, and willful, being completely indifferent to value of human life, that also would be enough to trigger a first degree murder conviction.

AGGRAVATING OFFENSES

Those representing the other side of this issue often misinterpret the post-conviction, resentencing procedure in capital offense cases popularly called aggravation and mitigation. The Supreme Court has required, as a result of the decision in *Lockett* v. *Ohio,* 438 U.S. 586 (1977), a balancing of aggravating and mitigating factors to determine whether or not a convicted defendant should be sentenced to death. This means only relevant aggravating and mitigating factors relating to the defendant's character, past history, prior bad acts, and the nature of the crime in question. The Lockett court focused on "any aspect of a defendant's character or record and any of the circumstances of the offense that the defendant offers as a basis for a sentence less than death." (*Lockett* v. *Ohio,* at 604). The opponents of the death penalty misconstrue the latter and oppose the former. What they are doing is to emphasize mitigation at the expense of aggravation. But the Supreme Court has declared that the entire nature of the crime and the criminal be taken into account.

Aggravating circumstances, Mr. President, are meant to be exactly that. The Court has listed in prior cases appropriate factors of aggravation and mitigation. *McGautha* v. *California,* 402 U.S. 183 (1971). If a statute provides for specified mitigating factors, and others are not relevant, then they do not apply. On first degree murder convictions, defendants have the burden of demonstrating why they should not be subject to the ultimate sanction. And justly so, if civilized society is going to continue to be civilized. Manufacturing and distributing narcotics, particularly in large amounts, is an activity that can be lethal and it is foreseeable.

CONCLUSION

In conclusion, Mr. President, the death penalty without a doubt reflects the majority view of the American people. It is designed, of course, to be applied by the courts within the parameters of due process and fundamental fairness.

Capital punishment shows that our society is committed to upholding its values. The death penalty indicates the moral tone of the system for which it is designed. It reflects, most of all, a sense of justice in righting the terrible wrongs inflicted upon victims and their survivors, and the wrongs inflicted upon society itself.

Capital punishment is a regrettable necessity. It is morally and philosophically defensible. The legendary ancient Greek philosopher, Socrates, himself subject to capital punishment, nonetheless defended it in one of the great Platonic dialogs on the eve of his execution—the Crito. The interests of the state and the interests of society, Socrates argued, must take precedence—in cases where the individual

has offended the fundamental norms of society.

Heinous crimes, Mr. President, deserve the ultimate sanction. These crimes must be subject to the only kind of punishment which fits the severity of the offenses.

Mr. President, I yield back the remainder of my time to the distinguished Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. I yield 1 minute to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, an article appearing in the February 19 edition of the Los Angeles Times recounted the slaying of a San Diego policeman by a drug-crazed maniac who shot the officer in a drug-induced moment of panic. Prior to the shooting, the killer had told an acquaintance, "I wouldn't hesitate to shoot a cop."

Mr. President, it is time for the Congress of the United States to take action to change the attitude. Perhaps if drug dealers and their henchmen knew that the consequences of killing a law enforcement officer would be death, they would think twice before squeezing the trigger. The amendment offered today by the Senator from New York will go a long way toward changing this arrogant attitude about the men and women who put their lives on the line every day to uphold the laws against drugs that the Congress and our State legislatures enact.

A February 29 New York Times article discussed the assassination-style shooting of 22-year-old rookie officer Edward Byrne. He was gunned down while sitting in his radio car guarding the home of a witness in a narcotics trial who had complained to the police about crack sales in his neighborhood. Ten thousand peace officers attended Eddie Byrne's funeral to show their resolve to fight back against the drug dealers and pushers who threaten their lives on a daily basis.

In yet another incident, two special agents of the U.S. Drug Enforcement Administration—George Montoya and Paul Seema—were shot to death by drug traffickers. These were not accidential slayings nor did they occur in the heat of passion. They were cold blooded, pre-meditated murders by members of a heroin crime cartel in the Far East. These murders were not just attacks on these two men—they were attacks on the Federal justice system—indeed an attack on society itself. It is time to send a clear message to the drug trade that these attacks will no longer be tolerated.

The amendment we consider today would impose the death penalty on drug kingpins and their hitmen when they intentionally, or with reckless disregard for human life, kill or participate in the killing of any person. This provision applies to those engaged in a continuing criminal enterprise in violation of the "Drug Kingpin" statute involving five or more persons and a series of three or more crimes.

The amendment also provides for the death penalty for anyone who, in the course of engaging in an ongoing organized drug crime, intentionally kills a Federal, State, or local law enforcement officer while he is acting in the line of duty.

The measure has been carefully crafted to withstand constitutional scrutiny under recent Supreme Court rulings on capital punishment, specifically Enmund versus Florida, 1982 and Tison versus Arizona, 1987. In those cases, the high Court held that for the death penalty to be applied, the killer must have had specific intent to kill, or else must have acted with reckless indifference to human life, and he must have been a substantial participant in the activity leading to the killing.

Procedural safeguards are also built into the amendment. Specific mitigating and aggravating factors would be considered and the defendant would receive advance notice of the Government's intention to seek the death penalty. The death penalty could only be imposed upon a unanimous vote of the jury.

Yesterday, the Nation joined together to remember the 155 peace officers who were killed in the line of duty last year. The best way to honor these fallen heros is to enact legislation that would severely punish those who kill those charged with upholding and enforcing our laws. I intend to vote for this amendment to honor the memory of those who have fallen in the war against drugs, and I urge my colleagues to do the same.

Mr. President, I commend, as did the Senator from Utah, Senator D'AMATO, Senator DECONCINI, and Senator WILSON.

When I discovered how strong the sentiment on this issue is, I joined them, to try to make certain this bill would contain this kind of provision.

Yesterday, the Nation joined to remember 155 peace officers who were killed in the line of duty last year. In my opinion, the best way to honor the memory of those people who have given their lives for this Nation would be to severely punish those who kill anyone in violation of our laws.

This is a very narrow amendment before us now, but I hope that the Senate will vote to reject a motion to table and will put this issue before us, so that we can deal with it appropriately.

Mr. D'AMATO. Mr. President, before we conclude this debate, let me say that it is obvious that the drug dealers and drug czars are absolutely fearless, when they can shoot down a police officer and have him executed for no other reason than that they want to demonstrate what they can do. I suggest that the time for the death penalty is long overdue.

Last Thursday, there was a headline in one of the local newspapers in New York: "Sleeping Woman Shot in Drug Turf Gun Battle." She is now on a respirator. At 1 o'clock in the morning, 10 men came and shot up the building she was sleeping in and killed her. There is a reckless indifference to human life. I suggest that the death penalty is appropriate.

I also suggest, as it relates to those who would kill someone in a drug conspiracy, that the only way you will get them to be able to talk is when you can hang that threat of the death penalty over their head. Then we will get the kind of cooperation we need.

Mr. President, the safeguards as they relate to constitutionality and as they relate to enforcement are provided for in this bill. If we are serious about fighting the drug epidemic and those posses and those gangs that are marauding, let us put a little fear in them instead of having the citizens and the police officers the ones who are fearful.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator from Michigan yield?

Mr. LEVIN. I yield whatever time the Senator needs, or whatever time I have remaining.

How much time remains?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. LEVIN. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I oppose this death penalty amendment. This is the wrong amendment at the wrong time on the wrong bill. Capital punishment is wrong as a matter of principle, it is wrong as a matter of public policy, and it is wrong to attempt to tie this highly contentious and controversial issue to the Defense authorization bill—especially when it is delaying final action on the bill and on the Senate's consideration of the INF Treaty.

I oppose the death penalty. The U.S. Government ought not to be in the business of taking lives. In my view, the death penalty is cruel and unusual punishment, and I hope that some day the Supreme Court will reach the same conclusion and declare it unconstitutional.

The death penalty is not justified as a matter of public policy, because there is no convincing evidence that capital punishment has any deterrent effect on crime. No criminal justice system—no matter how extensive its

procedural protections—can eliminate the possibility that an innocent person will be put to death. No criminal justice system can eliminate the substantial risk that racial discrimination and other arbitrary and unconscionable factors will play a role in determining who shall live and who shall die. Any marginal deterrent effect that the death penalty may have is clearly outweighed by the risk of mistake and the danger of prejudice.

Every Member of the Senate wants to do something about violent crime and drugs. But the death penalty is not the answer. It is not going to reduce violent crime or stem the tidal wave of illegal drugs washing up on our shores.

There will be other opportunities and more appropriate legislation for the Senate to consider the death penalty. We ought not to tie up the Senate debating this amendment now. It does not belong on the Defense authorization bill, and the President and the American people are waiting for us to begin consideration of the INF Treaty.

I urge my colleagues—whether they support or oppose capital punishment—to vote to table the pending amendment, so that we can move on expeditiously to final passage of the defense bill, and complete action on the INF Treaty before the Moscow summit.

If the motion to table fails, I will be prepared to discuss the amendment at greater length. But I hope that the outcome of this vote will make that course unnecessary.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized for 3 minutes.

Mr. SIMON. Mr. President, I hope, for two reasons, that this amendment will be rejected.

First is a procedural reason. The reality is that if we are talking about imposing the death penalty, we ought to be looking at this very, very carefully.

I do not think there is any question that if the death penalty goes on here, there is going to be extensive debate on that, as there should be. We should not be taking the lives of people just all of a sudden because someone comes up with an amendment.

The second reason goes to the substance of this issue. I recognize the political popularity of the death penalty, but I also know one simple truth, and that simple truth is this: The only people who get the death penalty are the children of the poor. If you have enough money to hire the best attorneys, you do not get the death penalty in this country. It is just poor people who get the death penalty. I do not think we ought to have this kind of penalty, a penalty of that severity, simply for the children of the poor, and I would hope that we would approach this with great caution.

Finally, I would add that this is one penalty where, if someone is innocent, there is no possible way to compensate for what has been done.

I recall some years ago when the death penalty was under consideration before the Illinois General Assembly. A man was about to be executed, I believe in the State of the Presiding Officer—I am not absolutely certain of that—but about that time, someone in Carroll County volunteered that he had been guilty of the crime. We came very near to executing an innocent person.

Unfortunately, our history has a number of instances where innocent persons have been executed.

I think this is not the way to go, and I hope with all due respect to my friend from New York that this amendment will be rejected.

I yield back the remainder of the time allotted to me to the Senator from Michigan.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. D'AMATO. Mr. President, to reiterate, I do not believe that this amendment is a panacea. I am not suggesting it is going to stop drug trafficking.

I am going to say I think it will have a measured impact in terms of the drug dealers who fear no one. The only thing they fear is death itself, and let them be on the end of that fear for a change. There are proper constitutional safeguards, I believe, in this bill built in to meet all of those requirements under the Supreme Court decision.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TRIBLE. Mr. President, I strongly support this amendment. It will add another weapon to our anti-drug arsenal by imposing the death penalty for killings that occur during drug-related crimes.

Last week, we made a decision to involve the Armed Forces more heavily in drug interdiction. That was a necessary step, and it will enhance our efforts. But improving our interdiction efforts is only one step. We must also have penalties that adequately punish and deter.

This amendment will provide a Federal death penalty for:

Drug kingpins who order the killing of someone;

The person who actually commits the killing;

Anyone who demonstrates a "reckless indifference for human life" who kills or participates substantially in the killing of someone in connection with a continuing criminal drug enterprise;

Anyone who demonstrates a "reckless indifference for human life" who kills or participates substantially in the killing of a law enforcement officer in connection with a drug transaction such as a policeman is shot during a shootout; and

Anyone involved in a drug transaction who kills a law enforcement officer.

Drug crimes are dangerous and deadly. Those who traffic in illicit drugs prey on our young people. They pose a clear and present danger to our Nation's law enforcement officers and, indeed, to the fabric of our society.

Yesterday in the Nation's Capital, the Fraternal Order of Police held its annual memorial service for law enforcement officers killed in the line of duty. In 1987 alone, 155 police men and women were killed. Our police are under assault, and they are especially vulnerable to violent, well-armed drug runners.

These drug kingpins contribute most to the widespread availability of narcotics. They threaten our policemen and our citizens. They are willing to kill anyone who gets in the way of their drug-pedaling and profits. They impose unacceptable risks on this country. It's time our society imposed a comparable penalty on them.

Quite simply, they deserve the toughest punishment that the Government can impose.

This amendment will provide a valuable tool for the Nation's prosecutors. It will afford our police and our children and all of our citizens a measure of protection. Moreover, it will send a powerful signal that America will no longer tolerate the damage that drugs inflict upon our children, our families, our homes, and our schools.

I urge that the Senate pass this measure decisively and vote against the motion to table.

Mr. HELMS. Mr. President, there is supposedly a war against drugs ongoing in this country. The drug czars stop at nothing to futher their enterprise of death and destruction. They poison our society; they enslave our children; they kill judges, prosecutors, and law enforcement officers. They kill anybody who stands in their way.

Mr. President, we cannot win this war on drugs by merely throwing money at the problem. Nor can drug czars be dissuaded by fines or light sentences. They laugh at such measures. What's a million dollars to a billionaire drug dealer? We need to place the fear of capital punishment in front of the drug czar.

The present law does provide the weapon of life sentences in the fight against drug czars. But how many life sentences are acutally served? Not many, because the criminal gets out on parole. We need the ultimate

weapon in this war on drugs: the threat of the death penalty.

Mr. President, this amendment gives the jury the option of imposing the death penalty in two specific cases. First, it applies when one who is engaged in a continuing criminal enterprise intentionally or recklessly causes the death of another. Second, it applies when a law enforcement officer is killed by one who is engaged in a continuing criminal enterprise.

We have countless instances where judges, law enforcement officers, and others have been killed at the hands of drug czars.

These murders are utterly despicable acts—they are deliberate and calculated. This amendment sends a strong signal to the drug czars that we will not sit by and allow them to murder in cold blood.

Mr. President, although the infliction of the dealth penalty is a personal tragedy for the convicted criminal, it is necessary in a civilized society in the interest of just punishment, deterrence of others, and protection to society from the offender himself. Without capital punishment for such heinous murders, the Government fails in its primary duty to administer justice, and in the process, it endangers all law-abiding citizens.

Perpetrators of these and other traditionally capital crimes wilfully risk the forfeiture of their lives. They have shown themselves unfit—through their own deliberate and voluntary conduct—to participate in civilized society becaused they have, in effect, declared war on that society. Under such circumstances, the death penalty is proportionate to the crime, it fits the crime, and no other punishment would really do justice.

Mr. President, in considering the justice of the death penalty, we must not overlook the fact that the guilty act is always a voluntary act. Under traditional Anglo-American law on this subject, an essential element in every capital crime is that it be a free act of will. The offender was free to choose not to commit the crime.

Opponents of the death penalty, however, would have us believe that capital crimes are mostly a product of one's background, upbringing, environment, childhood, and so forth. In their opinion, people who commit capital crimes are not properly educated or conditioned—or "socialized" as they say. As a result, it is really a neglectful society, not the offender himself, who is responsible for capital crimes. Naturally, given such a view, to inflict the death penalty becomes "cruel and unusual punishment" in every case.

This view represents a profound misunderstanding of human nature. It assumes that we do not act, in the most serious matters, with free will and freedom of action. It implies that we are not responsible for what we do. Indeed, it reduces the meaning of human action to a level little better than that of animals. Like them, we supposedly chew our cuds, do what comes naturally, and die—and that is all there is.

Fortunately, Mr. President, this view of human nature, while it may be held by some psychologists, penologists, and academics, is rejected out of hand by the overwhelming majority of Americans. They know, from ordinary experience that they can control whether or not they murder someone else, and they know that virtually everyone can do so as well. That is why they strongly support the death penalty and why they expect Government to use it without delay for heinous crimes such as those covered by this amendment.

Mr. President, in addition to serving justice, capital punishment is a strong deterrent. It simply stands to reason that in societies where there is a swift and sure application of the death penalty for heinous crimes, there will be less heinous crimes. The whole theory of deterrence is based upon the certainty, and the severity of punishment.

Deterrence has two main objectives—general and specific. General deterrence is community centered. Its underlying rationale is to protect the well-being of society. All potential wrongdoers are put on notice by the infliction of punishment through the instrumentality of the courts that serious offenses will earn a serious penalty. General deterrence constitutes both a present warning and a future threat to all would-be offenders that criminal activity will definitely incur some definite penalty.

Specific deterrence is aimed at a specific wrongdoer. It simply means that the convicted murderer who receives the death penalty, will by the very act of execution be prevented from murdering again. It is important to keep in mind that the Anglo-American legal system is based upon the belief in the sanctity, the worth, and the value of one human life. Thus, if the death penalty deters merely one would-be murderer, and saves but one innocent potential victim, then it is morally and legally justified.

Mr. President, on the overall issue of the morality and wisdom of capital punishment in our time, there has been much debate by various religious groups. Some religious spokesmen have recently even condemned capital punishment as the same kind of violation of the human person as abortion.

Nothing, Mr. President, could be further from the truth. As I have said on many occasions—to show the fundamental distinction between capital punishment and abortion—I favor capital punishment for all unborn babies who have committed capital crimes.

The crucial point here is that unborn children are perfectly innocent of any crime, having committed no voluntary act whatsoever—much less a culpable one. On the other hand, capital punishment is only imposed when an offender has committed the most egregious crimes against innocent human life.

Reserved in this way as the ultimate punishment for ultimate crimes, the death penalty does not violate our religious and cultural value of protecting innocent human life. Indeed, it actually vindicates this value by applying the ultimate sanction for unconscionable attacks on innocent citizens.

Traditionally, both Judaism and Christianity have affirmed the authority of the state to use capital punishment for heinous crimes. Without belaboring this point, I will simply add three short items. First, the Mosaic code mentions murder, kidnaping, witchcraft, idolatry, sodomy, adultery, incest, blasphemy, and several other offenses as punishable by death. Second, St. Paul said the ruler "beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil." (Romans 13:4). And third, St. Thomas Aquinas made this classic defense of the death penalty:

> If a man is a danger to the community and corrupts it through some sin or other, it is right and just that he should be put to death in order to safeguard the common good. * * * As God himself does, so should human justice put to death those who are a danger to others and reserve punishment for those who do not seriously endanger others. (Summa Theologica, II-II, 64. art. 2.)

Mr. President, there are numerous Federal statutes currently on the books that provide for a sentence of death. However, the fact is that the death penalty cannot be imposed for Federal crimes because we have failed to enact constitutional procedures for imposing such a sentence.

In 1972, the Supreme Court, in the case of Furman versus Georgia, ruled that the existing death penalty statutes were unconstitutional because the jury was allowed to use its unfettered discretion in determining whether a sentence of death should be imposed. That ruling rendered the Federal death penalty inoperative.

Subsequently, in a series of landmark decisions handed down in 1976, the Supreme Court determined that the death penalty was constitutional when imposed under certain procedures specifically designed to guard against the jury using its unfettered discretion.

Other decisions have clarified the circumstances under which the death penalty may be imposed. Since these decisions, efforts have also been underway in the Senate to set up the necessary procedures for the imposi-

tion of the death penalty in accordance with the Supreme Court's rulings.

This amendment complies with the constitutional requirements outlined by the Supreme Court.

This amendment establishes the appropriate procedures for the imposition of the death penalty in the specific cases addressed by this amendment.

Mr. President, I urge my colleagues to adopt this amendment in order that our society may once again have a measured response and justified deterrence for these heinous crimes.

The Senator from Michigan controls 2 minutes and 49 seconds.

Who yields time?

Mr. LEVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The remainder of the time is yielded back by the Senator from Michigan.

All time for the debate has expired.

The Republican leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wonder if any of those Senator who are opposed to the death penalty wish to move to table the amendment.

The silence is deafening.

Do they not wish to table the amendment? If the amendment is not tabled, under the agreement, it comes back before the Senate tomorrow at 10 a.m. or prior thereto if all other amendments on the list have been called up and disposed of. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I support the death penalty. I am going to move to table the amendment because that is what we agreed, that we would have a tabling motion. All Senators may wish to vote for or against the amendment, but that was the agreement. Senators have come to the floor expecting to vote on the tabling of the amendment, as was announced. And if the amendment is not tabled, then it will go away until 10 o'clock tomorrow, provided there are other amendments that keep the Senate busy until that time.

Let me give those who were so adamantly opposed to the death penalty the opportunity to move to table the amendment. I do not want to take the floor away from anyone. I do not want to be in anyone's way. Because I am supportive of the death penalty, there would be no reason for me to move to table this amendment, other than to have the Senate do what it said it would do, and that is vote on the motion to table the amendment today at 4 p.m. And it is 13 minutes after 4.

Mr. DOLE. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. DOLE. I do not know what the parliamentarian may have decided or the Chair may have decided. It was my understanding, if there was no motion to table made, then we have a question. Maybe that has been resolved.

But I agree with the majority leader. I wish some of those who were opposed to this death penalty amendment would stand up and move to table this amendment. Great speeches have been made on the Senator floor.

But, if that does not happen, then I think we do owe it to our colleagues who are here—and some have been here since even before 4 o'clock—waiting to vote.

It is my understanding that if the motion to table carries, then that is the end of this amendment. If not, and we finish at some reasonable time, say 6, 6:30, we would come back for further debate on the amendment for awhile this evening, in any event, and then we would have to figure out something to do between now and 10 o'clock.

Mr. BYRD. If the hour of 10 o'clock arrives and the amendment has not been tabled in the meantime, then it comes back before the Senate. I do think the Senate, having agreed to the order that the amendment would be called up at 3 o'clock and that there would be 1 hour of debate on it and then there would be a tabling motion and vote at 4 o'clock, I believe the Senate has an obligation to proceed and uphold the order.

So if no Senator who is opposed to the death penalty wishes to move to table the death penalty amendment, then I think some of us, some one among us who supports the death penalty, should move to table it and vote against tabling the amendment. I will do that if no one who is opposed to the death penalty does it. I will give those Senators another opportunity to make the motion.

Mr. FOWLER. May I address the majority leader for a procedural question.

Mr. President, I have not been involved in this issue, so I am reluctant to rise, but I think it might be helpful to those of us who are here to vote, given the present quandary. If there is no motion offered, is it our understanding that we would not, under any circumstance, revisit this amendment until 10 o'clock tomorrow morning; is that correct, if no motion were offered at this time?

Mr. BYRD. If no motion were offered, then the matter would come back before the Senate tomorrow morning no later than tomorrow morning at 10 o'clock.

Mr. FOWLER. But not before?

Mr. BYRD. It could be before. In the event that no other Senators wished to call up any remaining amendments on this list before the Senate, then, under the order, the death penalty amendment would be back before the Senate.

Mr. FOWLER. And if a motion to table was offered but that motion failed, when would the Senate then revisit the D'Amato amendment?

Mr. BYRD. At no later than tomorrow morning at 10 a.m.

Mr. FOWLER. So, in all likelihood, regardless of whether or not a motion to table was offered, the Senate would not revisit this issue until 10 o'clock tomorrow morning under the existing order. If that is the case, may I ask the majority leader to consider vitiating the order and proceeding with business, since we would not, in all likelihood, get to the D'Amato amendment again until 10 o'clock tomorrow morning.

Mr. BYRD. Mr. President, any Senator who wishes to ask unanimous consent that the order be vitiated may do so and it would be within his rights. If the Senate wished to vitiate the order, then there would be no vote on the motion to table today. But unless that is done, I think if we are going to enter into agreements around here, we ought to keep them.

The Senator from New York called up his amendment on Friday and there was a desperate effort here on the part of all of us to get on with action on that bill. One way of moving the bill forward at that time was to agree to set the amendment aside by the Senator from New York, Mr. D'AMATO, until 3 p.m. today and there would be 1 hour of debate on the tabling motion and that vote would occur at 4 o'clock today. If the tabling motion failed, then the amendment would be again set aside until the hour of 10 o'clock tomorrow morning, at which time the final vote is to occur, unless prior to that time all other amendments have been disposed of or Senators who wanted to call up their amendments had called them up, whichever one was the earlier of the two times, then that was the time which would govern the resumption of debate on the D'Amato amendment.

I do not think we should have entered into the order on Friday, putting the Senator's amendment aside. That was one way of getting it aside. We were all for that until 3 o'clock Monday so we could go ahead with other amendments. It was agreed that we would have a tabling motion at 4 o'clock today.

Now comes 4 o'clock and those who are within their rights and for good reasons in their own minds oppose the

death penalty amendment, now they do not want to come forward to move to table the death penalty amendment.

So, in order that the order be carried out in good faith, if no opponent of the amendment wishes to move to table, this proponent of the amendment will move to table, because I think we ought to be serious about these orders when the Senate enters into them. We ought to mean what we say and we ought not to wait until the moment arrives and then back away, hoping that the issue will go away until tomorrow at 10 o'clock when those who oppose the amendment say they will filibuster the bill to death, rather than see the amendment voted on.

Mr. DOLE. If the majority leader would yield just for one observation?

Mr. BYRD. Yes.

Mr. DOLE. It is not part of the record but I did indicate to the Senator from Michigan, Senator LEVIN, that there would not be a cloture motion filed prior to 10 o'clock tomorrow and that was the agreement we made. It is not part of this agreement. That is another way to get a vote. That may be resorted to.

I have not made a final determination but maybe others on the other side of the issue may be circulating a cloture petition. We are in the process of doing that but it will not be filed, if at all, before 10 o'clock tomorrow.

Mr. BYRD. I yield to the distinguished Senator from Georgia.

Mr. NUNN. I have just one question to ask the majority leader as manager of this bill. Is this really necessary to go through this kind of maneuvering now? Here we are. Everybody knows how they are going to vote on this. Everybody knows we are not going to get a death penalty on this bill.

Mr. DOLE. We do not know that.

Mr. NUNN. We are not going to get an armed services bill, if the death penalty is on it, any time in the month of May. Let me put it that way. We all know we have to finish this bill.

We just are not. We know it will be delayed. We know the INF Treaty is coming up so anyone opposing the death penalty, all they have to do is delay this bill until we get to the INF Treaty and then we delay it for 3 or 4 weeks, then we come back and we are right here again.

This is why we all complain about the quality of life. The reason we do not have a good quality of life around here is because we make ourselves miserable with useless procedures and then we complain about the leadership not letting us go home at 6 o'clock or 7 o'clock. What are we trying to prove here? Has anybody got a point that they can say we are really trying to prove because if not, I do not know why we do not go ahead and have a legitimate tabling motion, let the people vote their convictions on that, whether they are for or against the amendment.

That is the way we ought to proceed. That is the way we anticipated. If we try to play games on this we are simply going to spin our wheels. We are not going to finish this bill any time soon. We are going to have to come back in June.

We have 50 more amendments on there most of which are going to fade away by 10 o'clock tomorrow morning but will still be on there when we come back in June. We may not finish this bill until July and we will not have any difference. Even if we put the matter in conference, you know who we are going to be conferring with if the D'Amato amendment goes on? And I favor the amendment.

We are going to be conferring with the House Judiciary Committee. Does anyone believe we are going to come out with a defense bill with this on there? Does anybody believe that?

What are we doing around here? Have we really got to go through this kind of useless procedure, and I would say this on both sides, when it has no effect, no purpose?

Mr. STEVENS. Mr. President, would the Senator yield?

Mr. NUNN. That was a question, but——

The PRESIDING OFFICER. The majority leader——

Mr. NUNN. The majority leader can answer yes or no. Whatever he prefers.

Mr. BYRD. I think I already stated where I stand on this. I support the death penalty. But I think in view of the fact that we all were eager, last Friday, to move the bill forward the rest of the day and have some more votes on other amendments, all quite willing to put off this amendment until 3 o'clock today; if we had not entered into the order, that amendment would have stayed before the Senate on Friday and we probably would not have gotten any other amendments agreed to.

So that was a part of the order. Are we going to take the position now that, in the future, we will seek whatever advantage we can at a given moment and that once we have had the advantage, once we have secured the advantage and achieved whatever purposes we may have in mind, then when the time comes to carry out the rest of the bargain, we will keep our seats and we will not move forward and make the motion?

So, Mr. President, as one who supports the death penalty but as one who believes that the Senate ought to carry out its orders that are entered into, and which in this case made it possible for the Senate to make progress on other amendments on the bill, I think the Senate ought to now carry out the order and vote on the tabling motion.

I am not sure that a vote will render any decision on the tabling motion, but that is what we said we would do. There are a good many Senators here ready to vote.

I will be glad to yield to the distinguished Senator.

Mr. STEVENS. I thank the majority leader, Mr. President. I just want to respond if I could slightly to the Senator from Georgia for whom I have great respect. Having been one of those who has tried to help change the scope of the military involvement in the war on drugs, one of the constant criticisms that I ran into as we were having the negotiations with the administration and with Members of the House and even here in this body was the fact that we really have not demonstrated yet that we are really committed to this war on drugs to the extent that we ought to involve the military.

One person in particular mentioned to me personally the fact that we had not even made it a death penalty to be involved as a kingpin in the drug movement or to be involved in a death as part of a movement of drugs per se. I reported that to the Senator from New York, who had a visitor, the assistant U.S. attorney, and he proceeded to draw up this amendment.

I want to say that part of the overall attack on the war on drugs is to make certain that the world knows that we not only are going to commit our military offshore beyond the 3-mile limit, but we are going to restore the death penalty in those very limited circumstances where a person is involved in the killing of a human being as part of the movement of drugs into this country.

I think that that is the reason we want this vote now, and I would urge my good friend, the distinguished majority leader, to make the motion to table. I think there will be an overwhelming support. There ought to be an overwhelming support of the proposition that a person who moves drugs or is part of the movement of drugs, who is responsible or partially responsible, substantially responsible for the death of another human being, ought to be subject to the death penalty. We ought to restore the death penalty in this area, and that is the reason.

It is part and parcel of the overall attack on the war on drugs and, to me, it is as important as the issue of involving the military in the war on drugs beyond our 3-mile limit.

I would urge those who are taking the position opposed to the death penalty to look at the limited nature of this amendment, and it is very limited. I would say to my good friend, if he makes the motion to table, I would be happy to join with him in making the motion to table, as an ardent supporter of the amendment, just to fulfill

the time agreement that we belabored ourselves so much on on Friday evening.

But I say to my good friend from Georgia, Mr. President, that to me this is just as important as the involvement of our military people beyond the 3-mile limit in the war against drugs.

How in the world can we involve our military people and expose them to being killed as they really perform an act of war against the people who are violating our borders with this contraband and not at the same time indicate to the world that anyone that is involved in a death in those types of situations is going to be held to answer and given the death penalty, if the jury so finds it is necessary.

Mr. NUNN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. BYRD. I yield. Yes.

Mr. NUNN. If I could just respond briefly. Frankly, I would say to my friend from Alaska I will vote on an up or down vote when it comes time to vote on it on the proper bill, for this approach.

I think there are some technical flaws in the way the amendment is drawn but they could be worked out over a period of time. So I am not arguing with the Senator on the merits. In fact the Senator makes such a persuasive argument I will let him come and confer with the House Judiciary Committee for the summer, September, October, and November, because that is how long we will be on this if it is put on this bill.

We will not be able to get a defense bill out if this amendment is put on it. Let us face that. We know that. Maybe that does not matter to anybody except the floor managers but it matters to us because we have to have a defense bill. Eventually it will matter to the whole body.

I am not disagreeing with the Senator from Alaska on his substantive argument. What I am saying is frankly, procedurally what I hoped would work out is the Senator from New York would be given a true test vote, where people voted the way they saw their views on this issue on the motion to table. Then I was hoping we would get around, at 10 o'clock tomorrow morning, if the motion to table fails, the Senator from New York realizing how important it is to get this bill passed, realizing how important it is to go forward with the provisions that have already been inserted on the bill relating to the military and drugs, would agree to remain for his amendment but would pull it down until we had another bill, perhaps a Judiciary bill.

But, if the Senator does not get a vote on this bill we are going to be here from now until June, July—and I will say this to both sides of the argument. He is going to get a vote at some point on this issue this year.

So I do not see why we do not just go ahead and face it. Let everybody vote their conscience and let us finish the bill. That is all I am asking.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I fully agree with the Senator from Georgia. He is trying to get a bill. I do not think there is a likelihood we will get one if this amendment goes on it, but that was not the way we were talking on Friday.

The Senator from Michigan entered into the crafting of the unanimous-consent request that enabled the Senator from New York [Mr. D'AMATO] to set aside his amendment, which is what we all wanted to do on Friday. We wanted to set that amendment aside, and we were eager to enter into an agreement with Mr. D'AMATO that would allow us to put that aside the rest of the day on Friday and call it up today at 3 o'clock.

Then when we reached 3 o'clock today, those who are opposed to the death penalty and who are opposed to the amendment do not want to take the floor and make a motion to table it.

The Senator from Georgia is right, we are just going to play games, and if everybody votes against the amendment, the Senator from New York really does not get a reading of the sentiment in the Senate. And if he has gotten a reading on the sentiment in the Senate, I would then join with the others on tomorrow in urging him to take the amendment down. He has an opportunity to get a reading on it, and the Senate now has the opportunity to express its view, its will on tabling the amendment, but apparently that is not going to be the case.

Apparently, the Senate is not going to reflect its true sentiment.

Mr. D'AMATO. Can I respond to the majority leader?

Mr. BYRD. Yes.

Mr. D'AMATO. Mr. President, I think the majority leader has expressed the prevailing sentiment of this Senator and others of my colleagues who are interested in seeing to it that the death penalty is available in proper cases, as we intend, as drafted in this amendment. We are going to push forward and get some legitimate expression on that. I just as soon do it here tonight as opposed to be wrangling again at 10 o'clock.

There will come an opportunity for us, and we are going to continue to press on this. I am committed to that. But I think the majority leader has very eloquently and adequately expressed the sense of the frustration I think that the overwhelming majority of the Senate who feels that there is a proper place for the death penalty as crafted in this legislation to be the law of the land.

I am not going to, nor do I intend to, impede the business of this body. I think that is why we came to the agreement as we did this past Friday. I am not going to contend that we will, but certainly I would hope we can have a legitimate vote on this issue so we could demonstrate whether or not there is a true feeling within this body that the death penalty is appropriate, particularly in the case that relates to the organized crime enterprise that the drug people are running where they have these executions that are ordered or in wreckless disregard for human life.

Mr. LEVIN. Will the majority leader yield so I can move to table?

Mr. BYRD. Yes, I will momentarily, I told the distinguished Republican leader I would yield to him.

Mr. DOLE. I thank the leader. I want to say this is a very serious issue. It is one I think we can have strong differences of opinion on. We have had them. We had them in 1986. We had the death penalty in the drug bill in 1986. "Oh, we can't do that. It is going to kill the drug bill." We gave up again.

The House has passed the death penalty twice. They are not going to hold it up. The American people do not give one whit who is on the House Judiciary Committee. They could care less who is on the Senate floor.

Fifty percent of the American people list drugs as the No. 1 problem. They do not know about all these jurisdictional disputes we are all concerned about, properly concerned about.

But I share the view of the majority leader.

The Senator from New York made an accommodation to the Senate on Friday in good faith, and he would like to get a true vote. Maybe if we have a true vote reflecting the division in this body, he might decide not to pursue the amendment. But if not, we have to get a closure vote.

That is one way to get a true vote. If we get cloture on this amendment, then we might be able to keep it on the bill. He has not made that determination yet and will not make it before, as I promised the Senator from Michigan, 10 o'clock tomorrow.

But if everybody votes no on the motion to table, that is no reflection of our position, and, it would seem to me, the chairman and the ranking member have done a remarkable job on this bill, to finish it in 5 legislative days when you had 2 days of debate on base closing. Two days on base closing. One hour on the death penalty for those who inflict death and misery on children in America does not seem to me to be an overreaction by the Senator from New York or anybody

else who favors a death penalty when strictly limited.

So I hope if there is a motion to table that it will be a true reflection of the Senate's will, and that will help the Senator from New York make a final decision on what course of action he will pursue.

Mr. BYRD. Mr. President, the distinguished Senator from Michigan has asked me to yield to him so he may make a motion to table. I do that.

Mr. LEVIN. I thank my friend. I do not know whether my making a motion to table will lead to a truer vote than anyone else making the motion to table, but I am happy to do that.

Let me say two things, first, if I may, given the debate which has taken place.

First of all, I think the majority leader will agree when in conversation last week there was a discussion as to who might make a motion to table, it was explicitly left unclear as to who might make a motion to table. So that is not a change in any understanding.

Mr. BYRD. Will the Senator yield?

Mr. LEVIN. I will be happy to.

Mr. BYRD. When I put the request, I left it open because I did not know who would want to make it. I thought that someone among the Senators who had been speaking out against the amendment would move to table it.

Mr. LEVIN. I thank the leader.

Second, if I can thank my friend, the Republican leader, I greatly appreciate what he indicated here about the cloture motion. It was customary that you be so honorable, and it was indeed an honorable thing to do. I very much appreciate it.

Again, just one word since there has been a word of debate on this, before I move to table. Most of the victims of drug-related killings are drug kingpins. Not police officers, but drug kingpins. This amendment treats the killing of a drug kingpin the same way as it treats the killing of a police officer. They are both subject to capital punishment.

This is not targeted at protecting us against the killing of police officers. Maybe it is aimed to do that, but it is much broader than that since most of the victims are the kingpins. They are the ones who are killed in drug-related killings much more than are police officers.

Mr. President, I move to table.

Mr. NUNN. Will the Senator defer for 30 seconds?

Mr. LEVIN. I will be happy to.

Mr. NUNN. Mr. President, after this vote, we have several more amendments. We have 30, 40 left. I do not know how many amendments people want to call up now. I believe Senator DOMENICI has an amendment. We can have that one right after this. I think it will help.

If we are able to move four or five more amendments, we will reach a point, I hope, tonight about 7 o'clock, assuming people really vote their convictions on this amendment, where we can tell people there are no more rollcalls. We have to wait and see as far as this bill is concerned.

Senator WARNER and I talked, and we will stay around here as late tonight as anyone wants to offer amendments because we will have a time crunch tomorrow, if everything works out on capital punishment and if we get that kind of time crunch. I do not want anyone denied the right to bring up their amendment.

I want to thank the Senator from Michigan. I was here the other day on the floor when he made it clear that he was not binding himself to make the motion to table. I remember hearing that. So he acted, not only as he always does, honorably, but he put the Senate on notice implicitly that he might not move to table.

I believe if we get a true vote on this amendment, it will be in the interest of the Senate, in the interest of this amendment and will be in the interest of passing this bill.

I want to thank the Senator from New York for working out this amendment. I hope after this vote, if it is a true test vote, we can find a way to secure final passage tomorrow morning.

Mr. LEVIN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I join the Senator from Georgia in thanking the Senator from Michigan for making the motion. One way or the other, the Senate will keep its word when it enters into an order and have a vote. I thank him for making the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2070. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. STAFFORD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] and the Senator from California [Mr. WILSON] would vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 27, nays 68, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—27

Chafee	Hatfield	Mikulski
Cohen	Inouye	Mitchell
Cranston	Kennedy	Pell
Danforth	Kerry	Proxmire
Durenberger	Lautenberg	Sanford
Evans	Leahy	Sarbanes
Glenn	Levin	Simon
Gore	Matsunaga	Weicker
Harkin	Melcher	Wirth

NAYS—68

Adams	Exon	Moynihan
Armstrong	Ford	Murkowski
Baucus	Fowler	Nickles
Bentsen	Garn	Nunn
Bingaman	Graham	Packwood
Bond	Gramm	Pressler
Boren	Grassley	Pryor
Boschwitz	Hatch	Quayle
Bradley	Hecht	Reid
Breaux	Heflin	Riegle
Bumpers	Heinz	Roth
Burdick	Helms	Rudman
Byrd	Hollings	Sasser
Chiles	Humphrey	Shelby
Cochran	Johnston	Simpson
Conrad	Karnes	Specter
D'Amato	Kassebaum	Stennis
Daschle	Kasten	Stevens
DeConcini	Lugar	Symms
Dixon	McCain	Thurmond
Dodd	McClure	Trible
Dole	McConnell	Warner
Domenici	Metzenbaum	

NOT VOTING—5

Biden	Stafford	Wilson
Rockefeller	Wallop	

So the motion to lay on the table amendment No. 2070 was rejected.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

Mr. NUNN. Mr. President, may we have order? May we have order in the Senate?

The PRESIDING OFFICER. Senators will take their conversations, out of the well. Please cease audible conversations, so that we can hear the Senators seeking recognition.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas sought recognition. The Chair informs the Senator that under the previous order, the business before the Chamber is the amendment of the Senator from North Carolina.

Mr. NUNN. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. I yield.

Mr. NUNN. Mr. President, we are working with the Senator from North Carolina and believe we will be able to get an amendment that will reflect a consensus, at least between the floor managers and the Senator from North Carolina, and I believe some members of the Foreign Relations Committee have been involved in that. I know that Senator DODD has. We are still working on that, so I suggest that we temporarily lay that aside, without losing its right in the turn, and take

up either the Domenici amendment or the Bumpers amendment. I do not think either will take a lot of time, although I may be wrong.

Perhaps the Domenici amendment could be handled in about 4 or 5 minutes. If the Senator from Arkansas will agree with that, his amendment can be taken up right after that, and then we can go to the Helms amendment.

The PRESIDING OFFICER. The Senator from Arkansas retains the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to lay my amendment aside temporarily, in order to let the Senator from New Mexico offer his amendment, with the understanding that my amendment will be in order immediately after the disposition of that amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senate will be in order, so that we can hear Senators seeking recognition.

Mr. DOLE. Mr. President, I will take 1 minute to comment on the vote. It was 68 to 27, which shows that an overwhelming number of Senators would like to vote on this issue, this particular amendment by Senator D'AMATO.

I hope that between now and tomorrow morning at 10 o'clock, with a 68-to-27 vote—which I do not believe is a totally accurate reflection of the division in this body, but is fairly close—we would have a chance to vote up or down on the D'Amato amendment.

Mr. BUMPERS. Mr. President, was the unanimous-consent agreement accepted?

The PRESIDING OFFICER. The unanimous-consent agreement was accepted. No objection was heard.

Mr. PRYOR. Mr. President, would it be possible to ascertain from the Senator from Arkansas or the Senator from New Mexico whether either or neither of these amendments will require a rollcall vote?

Mr. BUMPERS. Mr. President, in answer to my colleague from Arkansas, I do not anticipate that at this time. I suppose something could go awry and it would require a rollcall.

Frankly, for the Members who are here, it is my present intention, based on the result of a colloquy between myself and the distinguished managers of the bill, to pull the amendment down after we debate it for a few moments.

Mr. PRYOR. I thank my colleague.

Mr. DOMENICI. Mr. President, I do not think mine will require a rollcall.

Mr. MURKOWSKI. Mr. President, I direct my question to the Senator from Georgia.

I have had a pending amendment on the Persian Gulf ready for a portion of Friday and all day today, requiring about 1 hour, equally divided. I have had assurances that that would be the next order of business at some point. But it is my understanding that the Senator from North Carolina is going to follow the Senator from Arkansas. Is that correct?

Mr. NUNN. I am sorry. I have been trying to carry on another conversation, and I apologize. Will the Senate restate the question?

The PRESIDING OFFICER. If the Senator will suspend, let us try to achieve order, so that the Senator can be heard when he asks his question.

Mr. MURKOWSKI. I direct my question to the floor manager. I have had a Persian Gulf resolution pending and notified him that it was going to be the order of business at some point during the day. It was agreed that 1 hour would be divided equally. In order to expedite the calender, I want to be sure that the floor leader is aware of that and that it is somewhere in the offing, prior to 10 o'clock tomorrow morning.

Mr. NUNN. I say to the Senator from Alaska that I am familiar with the amendment, but the amendment has not been agreed to. It will require debate, and I imagine that it will require a rollcall vote.

I suggest that the Senator not move very far from the Chamber, because we have three or four matters that may not take very long; and perhaps within 20 or 25 minutes—say, around 5:30—we will be able to take up the Senator's amendment. I do not believe it is under a formal time agreement, although the Senator has offered 1 hour, and I hope we can stay within that.

I do not manage the order, and the Senator will have to get recognized. I suggest that he come back in the next 20 or 25 minutes and see if we can get the amendment up later the afternoon.

Mr. MURKOWSKI. I thank the Senator.

AMENDMENT NO. 2087

Mr. DOMENICI. Mr. President, I send an amendment to the desk, on behalf of myself and Senator BINGAMAN, my colleague, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN, proposes an amendment numbered 2087.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES.

Not later than June 30, 1989, the President shall submit a report to the Congress which includes a review of the relationship of the arms control objectives of the United States with the responsiveness of research and development of monitoring systems for weapons verification. Such review shall include but not be limited to the participation of the Departments of Defense, State and Energy, the Director of Central Intelligence, and the Arms Control and Disarmament Agency.

At a minimum, the report shall include the findings of the President, and such recommendations for improvement as the President shall deem appropriate, with respect to the following:

(a) the status of coordination in the formulation of U.S. arms control treaty verification policy;

(b) the status of efforts to ensure that arms control treaty verification policy is formulated in a manner which takes into account available technology for monitoring systems; and

(c) the status of efforts to insure that research and development on monitoring systems technology evolves in step with arms control treaty verification policy.

COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

Mr. DOMENICI. Mr. President, the most important principle of any arms control agreement is improving national security. But arms control agreements cannot contribute to national security unless they can be effectively verified.

If we cannot be sure that arms control treaties are being adhered to, we are, in fact, jeopardizing that security.

The ciritical role played by verification explains why the intrusive verification measures written into the INF Treaty have attracted so much attention.

That is also why the Senate has been unwilling to take up that treaty until all of the important verification provisions in the treaty have been agreed upon by both parties to the agreement.

The confusion surrounding the verification provisions of the INF Treaty makes it clear that we must not repeat the mistakes involved in the INF negotiation process.

The new interest in verification resulting from the signing of the INF Treaty has produced a new form of nuclear proliferation, a proliferation of Government offices with the word verification in their title.

I agree that verification research and development is more important now than it has ever been, and I'm sure all Members of the Senate agree that we need to do a better job in this critical area.

I am privileged to have within the borders of my State two organizations which have been at the forefront of verification research and technology for many years. I am speaking of the

two national laboratories in New Mexico, at Sandia and Los Alamos.

I would recommend to my fellow Senators that they visit the DOE lab at Sandia and take a look at the perimeter portal monitoring system which was developed and set up there. This is the design which will be deployed in the Soviet Union to assist in monitoring the INF Treaty.

Some of the scientists at Sandia believe that the Soviets may even be interested in purchasing or borrowing this same state of the art verification technology.

I am in favor of verification research and development at the national laboratories and in other parts of the Government. But I am concerned that the effort is not well coordinated, especially as more resources are put into this area and more bureaucratic players get into the game.

I think that we are in danger of overdriving our headlights by letting the State Department's interest in arms control agreements outrun our abilities to verify those agreements.

Let me give an example of what we are up against here. Last January the Defense Science Board in the Pentagon established a task force to study the verification procedures for the START Treaty.

This task force, staffed by well qualified people, completed its report this month. I expect that it will make a valuable contribution to our ability to verify a START Treaty.

But I remind my colleagues that the State Department began negotiating a START agreement 6 years ago.

Yet, here we are, 6 years after we began negotiating a START agreement, undertaking a study to determine how we can best verify it. This is putting the arms control cart before the verification horse.

We must take steps now to insure that our arms control objectives are in line with our verification capabilities. And we must insure that we begin the verification research today for the arms control agreements which may be important to us in the future.

The amendment which I offer addresses this lack of coordination between our arms control intentions and our verification capabilities. It also seeks to minimize the confusion which may result from a mushrooming of new agencies all intent upon playing a role in the verification area.

This amendment requires the next President to carefully review our arms control objectives and to then determine what will be needed in order to verify the agreements which we will seek.

The President will also examine the coordination of our verification policy among the agencies involved in arms control and verification.

At a minimum, this review would require the participation of the Departments of State, Defense, and Energy, the Central Intelligence Agency, the Arms Control and Disarmament Agency and the National Security Council.

The President would be asked to offer recommendations for improving policy coordination among these organizations and linking our treaty objectives to our verification capabilities.

The findings of the President's review would be reported to the Congress not later than June 30, 1989.

Mr. President, I think that the floor manager and the ranking member have seen this amendment and that they have no objection.

The Intelligence Committee might have some jurisdiction in this matter, and both the chairman and the ranking member have been advised of this amendment. I do not believe they have any objection.

Mr. President, the new interest in verification resulting from the signing of the INF Treaty has produced a new form of nuclear proliferation, a proliferation of Government offices with the word "verification" in their title.

Essentially, what the Senator from New Mexico is asking is that the President of the United States, by June 30 of next year, report and recommend to the Congress of the United States a method of centralizing the activities of verification and the science of verification and relate that to policymaking that will involve the need for verification and verification science and technology.

Some of us are beginning to worry that our arms control negotiations get ahead of our verification technology, or vice versa, or that there is such a proliferation of verification research and technology that there is not a coordination as we move to enforcing our activities, as a nation, in the field of verification.

Some of us are even concerned that policy is being made without knowing the extent to which verification technology has evolved, or the extent to which we will be unable to verify the agreements under negotiation.

This amendment is asking the President to look at it all and tell us how we ought to make more sense out of it and where it should be focused and where in the Government some body should be in charge of pulling it all together. That is essentially what it does.

Mr. NUNN. Mr. President, I think this is a good amendment.

The Senator is right, in the sense that we have to pull this verification together. We have to have more coordination.

It is not only part of the INF Treaty; but most of us concerned with the INF Treaty recognize that the reason it is important is that it is a precedent for other treaties that will be much more militarily significant that the INF Treaty—for example, START and the conventional arms discussions which are underway.

Although I have resisted reports and think we have too many of them, I think this is a very important report and will focus not only on Congress, when we receive it, but also the administration, as they prepare in this area.

I recommend that the amendment be accepted.

Mr. WARNER. Mr. President, I join the chairman in his remarks and commend our distinguished colleague from New Mexico.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I thank the managers for their support.

I believe that this serves as a strong reminder to the executive branch that we should not find ourselves again in a situation where we have a treaty as important as the INF Treaty yet we find ourselves scurrying around to put together a team to do the verifying. We should not be in that position in the future.

For those who negotiate treaties, there should be one place where they can find out about the science of verification and where we are headed. We do not have that now.

I urge adoption of the amendment, and I yield back the remainder of my time.

Mr. NUNN. I yield back the time on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2087) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2088

(Purpose: to limit the operational deployment of certain strategic offensive nuclear weapons systems and launchers)

Mr. BUMPERS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself and Mr. LEAHY, Mr. COHEN, Mr. CHAFEE, and Mr. HEINZ proposes an amendment numbered 2088.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS.

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act."

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1989, to overhaul, maintain, operate or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation, or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1989, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section.

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles" and "submarine launched ballistic missiles equipped with multiple independently targetable reentry vehicles" mean launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

(g) SALT II COMPLIANCE AMENDMENT.—Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the SALT II Treaty, in whole or part, unless and until the following have occurred:

(1) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(2) The Senate has given its advice and consent to the Treaty;

(3) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned.

(4) Each party has ratified the Treaty in accordance with its own constitutional processes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, the other day we voted on an amendment that Senators LEAHY, HEINZ, CHAFEE, and I offered on interim restraint to try to keep the arms race under control pending the adoption of a START Treaty and the consideration of such a treaty by the Senate.

The amendment was crafted differently from the way we approached it last year, and unhappily the amendment was defeated, 51 to 45.

So, the amendment at the desk is precisely word for word the amendment we adopted last year, including the so-called Dole-Warner language which said that this amendment would in no way affect the SALT II Treaty or, better said, that this was not in any way a ratification or approval of the SALT II Treaty.

I am perfectly happy to add the Dole-Warner language to my amendment—it was added last year—because that is not my intent. My intent is simply to point out to the Members of this body that as strongly as I favor the INF Treaty, we should bear in mind that the INF Treaty only will remove about 350 warheads from Western Europe on behalf of the United States, yet we have already added 500 warheads to our long range nuclear arsenal since the INF Treaty was signed last December.

It is nuclear madness for both sides to just continue adding unneeded nuclear warhead on top of unneeded nuclear warhead. It is a form of nuclear idolatry, which is insane.

So all I want is to say let us try to keep some kind of cap on the arms race pending the happy day that we can get a START agreement and possibly reduce the number of warheads by 50 percent.

I have discussed this amendment with the floor managers and, incidentally, I offer this amendment on behalf of Senators LEAHY, COHEN, CHAFEE, and HEINZ.

I hope that it will not be necessary to force a rollcall vote on this. It is not my intention. But I discussed this with the distinguished Senator from Georgia and the floor manager of this bill pursuant to his statement on the floor the other day that he approved of the goals of what we were trying to accomplish. I hope that he and I might engage in a colloquy as to what he might expect to happen when we go into the conference with the House on this item, and the House has already approved rather strongly, by a 240-to-174 vote, language almost identical to this amendment.

So, I would hope that even though the Senate does not make a rollcall vote on this, that the distinguished chairman of the Armed Services Committee would agree with me that interim restraint makes a lot of sense.

Mr. NUNN. Mr. President, I would completely agree with the Senator from Arkansas.

I would hope we get a START agreement. I hope we get a START agreement during the Reagan administration, but I am not at all certain that we are going to be able to accomplish that goal, particularly those of us who feel so strongly as I think most Members of this body do, that we have to iron out the details. We have just gone through an INF debate where they spent a long period of years debating it and discussing it, and they still did not reach an agreement that did not have to have great scrutiny and did not have some problems, which we have just gone through.

My point is this: We have no certainty whatsoever that we are going to get a START agreement in this administration any time soon. We hope we do but we are not certain of that.

I believe interim restraint is very important. I think the administration—this is speaking only for myself; I do not speak for the committee on this; there are differing views—I think that the administration made a mistake in not continuing the interim restraint regime.

Last year in the conference we debated this with the House. We had a three-way negotiation with the administration. We finally concluded that we should not address this issue in a formal way, but we would take steps and did take steps in last year's conference to informally stay within the general range of the overall ceilings that would have been the ceilings had SALT II been ratified and put into effect.

I have never favored, as the Senator knows, voting by majority vote in the Senate to formally require following an agreement which has never become a treaty because it has never been ratified.

So, I have been reluctant to impose by law provisions of a treaty which has never been ratified which I believe obscures the overall scheme of the Senate ratification of a treaty.

We had a unique set of circumstances last year when the Senator from Kansas made it clear that we are not writing into law any SALT II provisions, and that enabled me to vote for the Senator's amendment. We did not have that set of circumstances this year, and I voted against the Senator's amendment. That may be technical to some people. But it is important to me, and that was the rationale.

To make a long statement shorter, I will say to the Senator that as the chairman of the committee and as one of the conferees, I will certainly be working with our own conferees on the Senate side and on the House side to find a way, a practical pragmatic way, to see that we stay within the general range of the subceilings that would have been in effect had SALT II become a treaty and therefore the law of the land.

There are not easy ways to do that. We do have ups and downs, as the Senator well knows. When the Trident is deployed, you go over the ceilings. When some older submarines are taken out, that helps bring the ceiling back down.

We have some very complicated plans for retirement in the sense of how they impact with the fiscal year. Some of the plans for retiring submarines that I have heard about, not formal now, but some of those become effective in 1990.

I can say to the Senator that I will work to further the goal that he has articulated here, and that is seeing that while both superpowers are negotiating hopefully on the START agreement we should not have a lifting of all restraints which would then simply perpetuate the arms race and cause both sides to have less and less confidence and also increase the instability of the world.

I share the Senator's goal in that respect. I will be consulting with him and with others as this conference takes place. I will be working with Chairman ASPIN on the House side; Senator WARNER, my colleague here in the Senate; and others to basically accomplish something similar to what we accomplished last year coming out of conference.

(Mr. DASCHLE assumed the chair.)

Mr. BUMPERS. I thank the Senator very much for his remarks that I think are right on target. Obviously, he and I agree on the necessity for restraint and the one point he made which should not be lost on anybody is that we do indeed have a tendency to go up and come down. We have been up since the President elected to break out of the SALT II treaty constraints. We have been up as high as 1,348. I think right now we are probably at least 10 below that, maybe a little bit lower than that.

But as the Senator knows this fall we have a Trident submarine in September going to sea. Next May we have still another one. Each one of those submarines have 24 MIRV'd missile and bomber systems. And meanwhile we will only be dismantling one Poseidon submarine, with just 16 MIRV'd missiles.

But having said all of that, I do not object because I know that it is necessary in strategic weaponry to occasionally go up to a fairly high level as long as we know we are coming back down.

I might say at this point, the Soviet Union has shown a remarkable amount of constraint in this whole thing. They are in a much better position, as the Senator knows, to break out of the SALT Treaty than we are. They have hot production lines on a lot more strategic systems than we have. They have three ICBM systems in production to our one: the SS-18 mod 5, the SS-24, and the SS-25, versus MX for us. They have two SLBM systems—the SS-N-20 and SS-N-23—in production to our one, the Trident II and they have two bombers in production—the Bear H and the Blackjack—to our none. For example, let us assume that Gorbachev's position is not as solid as we might like to think it is. Obviously, if Gorbachev falls, that means the hard liners are back in control. That would also mean that, in all probability, they would not show the kind of restraint they have been showing in face of the fact that we are flagrantly exceeding the SALT II limits. For example, they did not continue their nuclear testing moratorium when we kept on testing. After about 18 months they resumed testing. And it's been 18 months since the United States started exceeding the SALT limits.

As of this moment, we have about 1,336 MIRV'd missile systems and the Soviets have about 1,270 or, 66 less. For bean counters, maybe that is important. I do not think it is terribly relevant one way or the other.

But I just do believe strongly that if we go up and back down and back up a little bit higher and back down not quite so far, if we do not have a START agreement, and one of these years we get one and say we cut warheads in half, but we wind up back about where we are right now.

So I thank the Senator from Georgia for his very statesmanlike statement on this issue. It is one that we deal with constantly. We have a tendency to treat it almost ritualistically and by rote and not for the fact that we are really talking about the fate of the planet Earth.

So I thank the Senator for his cooperation on this. I do not want to take the Senate's time any further on this.

I see my colleague from Vermont is here, who had asked to be allowed to speak on this. I will be happy to yield the floor in his favor.

Mr. NUNN. I thank the Senator from Arkansas.

Mr. BUMPERS. I yield the floor.

Mr. LEAHY. Mr. President, I believe it was Yogi Berra who once said that it was deja vu all over again. That is almost the way it is here. We seem to be keep going back on the Bumpers-Leahy-Chafee-Heinz amendment. In some ways you would almost think we would not have to. You would think that everybody would accept the fact that if we are going to be out negotiating for greater arms control that we might stop just building, on both sides, a continued escalation of the nuclear arms race.

But the need for some controls on strategic weapons is too great and the time too pressing to leave this issue unsettled. Therefore, my friends and I reintroduced the same amendment the Senate adopted by a 57-to-41 vote last October 2. The only change, as the Senator from Arkansas and others know, is to make the effective dates of the funding prohibition run through fiscal year 1989 instead of 1988. Otherwise, the amendment is the one 57 Senators voted for last October. It is substantively the same as the interim restraint provision in the defense authorization bill which the House just recently passed.

Now, this amendment would prohibit the United States from deploying any MIRV'd missiles and heavy bombers armed with the cruise missiles in excess of the 820, 1,200, and 1,320 level.

It empowers the President, of course, to waive this restriction if at certain times the Soviets are extending any of those levels. In other words, there is a requirement in here. And the way it is set up, it gives no incentive to the Soviets to go forward when we stand still because the President simply has to certify they have done that and we can move forward. But it is about the only thing that sits out there in the way for us to say that enough is enough.

My good friend, the distinguished chairman of the Armed Services Committee, has stated that he shares the goal of our amendment to keep in place an interim cap on United States and Soviet strategic systems pending a START Treaty. In fact, as I recall, the Senator from Georgia voted for that last year.

Now I recognize the distinguished chairman wants the flexibility to work out in conference with the House some kind of steps which will keep the restraints on the arms race but does not want the Senate to vote on our amendment. I have brought enough bills to

conference to know how any chairman would want that kind of flexibility.

The distinguished chairman has also stated that he intends to work through the coming fiscal year to maintain an interim restraint regime. In our discussions, he made clear he would advocate and work for additional requirements of older United States multiple warhead systems so long, of course, as the Soviets continue to show restraint in their own comparable systems. In other words, it is the position of the distinguished chairman to keep this interim restraint framework in place.

I much prefer a legally binding funding prohibition on United States actions which would take us above some clearly stated numerical cap, such as those in our amendment, so long as it is on a reciprocal basis with the Soviet Union.

But I understand, from our battles on this floor, that the cards are stacked against the Bumpers-Leahy, et al, amendment becoming law, even though 57 Senators voted for it last year. So I am not going to seek a vote on this amendment, because I rely on the statements of the chairman of the Armed Services Committee.

But, Mr. President, I have come back with this issue every year now for a half a dozen years. I feel very, very strongly that it is in the best security interest of the United States to have a real nuclear arms control. Also, I believe very strongly that we could continue to seek such arms control and really wreck anything that we might gain if, while we are seeking arms control, we engage in a continuously escalating nuclear arms race.

The Bumpers-Leahy amendment says: "Let's everybody pause and think about where we are. Enough is enough. Let us stop here. As far as the Soviet Union stops here, let us do the same and then support the President of the United States in seeking realistic reductions."

It does us no good to say that we will support efforts maybe this year or next year or 4 years from now on the part of the President of the United States to seek reductions if what he is going to be reducing is something that have added to every year. It makes no difference if all we do is to escalate the nuclear arms race and then somebody, someday when sanity finally peeks through, say, "My gosh, it's about time to reduce what we built on." Let us start from a smaller base. That is all the Bumpers-Leahy says; that with the thousands of warheads on both sides, that should be enough for any country, that should be enough for any kind of deterrent. Now let us go on to the real difficult task of seeking reductions.

So I compliment my good friend from Arkansas, both my good friends from Arkansas, and my friend from Georgia. And, with his assurances, assurances stated here earlier, I will not press the Bumpers-Leahy-Chaffe-Heinz amendment to a vote.

But I would note, Mr. President, that if the Department of Defense is not willing to go forward with this kind of restraint and if the administration is not, then I will take this amendment which has gotten 57 votes in the past in the U.S. Senate, and seek to add it to the next appropriations bill.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, with the assurances and the statements made by the distinguished manager—and I want to say at this point, also, that I know that he cannot make a single promise, he cannot make any promises because, while he is chairman of the committee, he cannot assure this body that the conference members from the Senate will always adhere to his wishes. But he is a strong leader. He understands this issue and has certainly stated his agreement with the goals that we are trying to achieve.

With that, and the belief that the conference will come out with an interim restraint as good or better than the one we had last year, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment was withdrawn.

Mr. DIXON. Mr. President, at this time, we have an agreed upon amendment by the distinguished Senator from Florida that we are prepared to accept.

AMENDMENT NO. 2089

(Purpose: To create a Commission on Alternative Utilization Of Military Facilities to identify space on active and non-active military facilities to be used as Federal correctional facilities and residential drug treatment facilities)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. CHILES] propose an amendment numbered 2089.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES.—

(a) Within 30 days after the enactment of this legislation, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be made up of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services and the General Accounting Administration.

(b) On a biannual basis, the Commission shall—

(1) prepare a report listing active and non-active military facilities that the Department of Defense has identified as fit for closure, underutilized in whole or part, or on the surplus property list;

(2) identify those facilities, or parts thereof, that could be utilized or renovated as minimum security facilities to hold non-violent prisoners;

(3) identify those facilities or parts thereof, that could be utilized or renovated to house non-violent persons for drug treatment purposes; and

(4) present this list to the President and to the Congress.

(c) The first reporting required by subsection (b) shall be submitted to the President and to the Congress no later than September 1, 1988. Further reports shall be issued not later than September 1 every 2 years thereafter through fiscal year 1996.

Mr. CHILES. Mr. President, it is well known, that the United States has invested billions of dollars in military real estate in the United States and abroad. It is also known that some of this investment is no longer used, is underutilized or has long ago outlived its original purpose.

This property can be sold and contribute substantial revenues to the U.S. Treasury.

However, this property should also be evaluated for alternative uses to address critical problems of this country.

The U.S. prison system is 60 percent overcapacity today. It is projected to get even more crowded during the next decade due to mandatory sentences imposed in the Anti-Drug Abuse Act of 1986 and the Sentencing Guidelines.

In another area, the problem is similar but even more severe in some respects. Persons seeking drug abuse treatment simply cannot find help. Drug abuse treatment facilities are lacking in every State and existing programs cannot come close to meeting the demand. There are long waiting lists in every county of every State of persons desperately seeking help.

Mr. President, we have to provide prison space and we should provide drug treatment.

But construction costs are scaring us off.

Therefore, the amendment I offer is intended to offer an alternative to construction of all new facilities. My amendment creates a Commission on Alternative Utilization of Military Facilities which shall be responsible for evaluating and identifying military facilities which could be used as correctional facilities or drug treatment facilities. The Commission would be made up of representatives of the Department of Defense, Bureau of Prisons, National Institute on Drug Abuse, and General Services Administration who will be appointed by the President.

Mr. President, the use of military facilities by the Bureau of Prisons for correctional facilities is being practiced today. In fact, the effective example always used exists at Eglin Air Force Base in Florida. This program has proven successful. Both the military and the prison system benefits. The base commander is pleased because work programs by the inmates provide jobs and saves money for his purposes. Bureau of Prison officials are pleased because placing nonviolent inmates in such facilities allows more space for other prisons in the overcrowded prison system.

I am told that base commanders at military bases across the country have indicated that programs like the Federal Prison Camp at Eglin would be welcome. My amendment would provide for a formal structure for more future cooperative efforts.

And, my amendment would also allow space at active or nonactive military facilities to be used for drug treatment by the National Institute on Drug Abuse. Such facilities could often be ideal for residential treatment facilities which are so lacking in this country. I intend to offer legislation at a later date which will authorize the Bureau of Prisons, National Institute on Drug Abuse, and State drug abuse agencies to establish appropriate programs at these identified facilities to address the tremendous demand for space for incarceration, incarceration with drug abuse treatment and drug abuse treatment. Such programs costs will be borne by Bureau of Prisons and the National Institute on Drug Abuse and will be required to be operated in cooperation with base commanders, where appropriate, so that activities like work programs will benefit inmate and patient, base operations and the overall efficiency and cost-effectiveness of the military facility as well as the specific correctional or treatment programs.

Mr. President, I want to stress that my amendment does not dictate what facilities could be used or what programs should be where. What my amendment does is create a Commission of experts from the Defense Department, Bureau of Prisons, National Institute on Drug absue, and GSA who will determine what space is available and for what purposes it could best be used. It will be up to the Commission and the appropriate agencies to determine the correctional and treatment programs that would be appropriate for specific space on active and nonactive military facilities.

I am convinced that our vast investment in military property can go far to help us with the critical problems we face with our prisons and drug treatment. I hope my colleagues agree.

Mr. President, we have been talking both to the ranking member and the chairman about this amendment. I think it makes ultimate sense to do this, and I hope the amendment would be adopted.

I have other debates, but I would be happy to reserve that.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will momentarily yield the floor to my colleague from New Hampshire so the Senator can speak to this, but I wonder if I might ask the Senator from Florida a question or two about this first.

The trauma connected with the closure of a military base is very severe. As a matter of fact, communities through the years have grown very attached to them. In most instances the communities provide a great deal of the amenities for military bases personnel that are there. Therefore, it is going to be a severe hardship on the community and severe hardship on the Members of the Congress that represent that community.

My understanding of the current law is that if a base is closed, then the first priority goes to the Bureau of Prisons. Is that correct?

Mr. CHILES. I think that is correct. Immediately when a base is declared surplus property, there is a list of priorities. The No. 1 agency on that list is the Bureau of Prisons.

Mr. WARNER. So the Bureau of Prisons could take it over for any category of prisoners.

Mr. CHILES. That would be true under present conditions.

Mr. WARNER. That is my point. Under present conditions, any category of prisoners or the like could go under this priority of existing law.

So the Senator's amendment, in effect, sort of steps back to limit this future use to nonviolent and rehabilitation cases, is my understanding, in the drug area. Is that correct?

Mr. CHILES. Well, I think you could argue that. While the amendment does not influence the "fit for closure policy," we are not trying to impact that policy at all. I think that it does provide an alternative method. It does set up a commission and that commission will be reporting to the President and to the Congress.

So I think the Senator could well make that point.

Mr. WARNER. I think it may well be of help to communities because under existing law——

Mr. CHILES. The only thing of course, the amendment is providing for nonviolent prisoners.

Mr. WARNER. That is my point. Nonviolent. It gives, indeed, more notice to the community. The community would be on notice from this bipartisan group—and the Congress.

Mr. CHILES. And the Congress.

Mr. WARNER. So it could well be that this amendment could be helpful to those communities that have apprehension about it being automatically shifted, the closure situation, to the Bureau of Prisons.

I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if the provisions on base closing survive conference, that will be a remarkable, almost unbelievable achievement for this body and for the House. And I certainly hope that is the case.

My first reaction to the amendment offered by the Senator from Florida was that it would make a very difficult situation even more difficult for communities and especially Members of Congress representing those communities in the case of base closings. But, in discussing the amendment, it turns out that existing law is even worse in that respect; that the Chiles amendment will ameliorate the situation a little.

But it seems to me that what I have discovered is the need to amend existing law—and I am not proposing we do it at this moment—but it seems to me there is a real need to amend existing law because it is hard enough for a Senator or a Congressman to go to a community where a base is slated for closing and say: "Look, we are going to cut off this large source of the community's revenues and, not only that, but you have to host a prison. That is a double whammy. That makes things very difficult for Members and communities. But that apparently is existing law, as the Senator from Florida has just pointed out in the discussion with the Senator from Virginia. The existing law is even worse than what he recommends.

So, I think we have discovered a situation that needs to be rectified at some fairly early date through amendment of existing law. So that in the difficult circumstances of base closings, we do not have to compound the problem by telling a community, not only are we going to take away this base and all the revenue you are used to, but you have to host a prison as well. That is a double nightmare. I think we need to address that, but that is not the matter at hand right now.

I thank the Chair.

Mr. WARNER. Mr. President, I thank all Senators. As far as I know, there are no other speakers on this side, and we can proceed with the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, I think it is a good amendment. I think we have to be very careful where we put any facilities involving prisoners. We all know that is sensitive, but there is nothing in this amendment at all that would impose on any community arbitrary decisions in this respect, and I

think the Senator has identified a real need, and the commission, and I think it is a timely amendment. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 2089) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. May I say to my distinguished colleague from Florida, I appreciate his patience on this matter and ask for forgiveness if there was any delay.

Mr. CHILES. I thank the Senator from Virginia.

Mr. NUNN. Mr. President, I do thank the Senator from Florida. He has been over here quite a few times over the last couple of days and I appreciate him working with us and getting this amendment up.

Mr. CHILES. I thank the distinguished Senator.

Mr. NUNN. Let me make an administrative announcement. Senator WARNER and I are both due in the Intelligence Committee and we have to leave. I know Senator DIXON will be managing this on this side for the next hour or so.

As far as the managers are concerned, and perhaps Senator WARNER could add to my knowledge on this subject, I am not completely up to date here, but we have taken care of the Chiles amendment; we have at least had a vote on the D'Amato amendment; we have talked about and dealt with and passed the Domenici amendment on verification.

We have four amendments that I know can or will come up this evening. One amendment is the amendment on the Persian Gulf by Senator MURKOWSKI. At this point, that amendment is not agreed to.

Another amendment is by Senator KENNEDY on SIS. At the moment, that amendment is not agreed to.

I understand we may have—I am not sure about this—a Gramm amendment on registration related to health care personnel. I am not aware that one has been worked out, so that is three.

We have a Nunn-Warner amendment that we will need to get the Senator from Alaska, Senator STEVENS, on the floor for. And also the Senator from Mississippi will be on the floor and we will be talking about the authorization/appropriation differences that we have had that we have, hopefully, worked out. That is going to require an amendment.

With the exception of those amendments, I do not know of any other amendments that people have requested be brought up this evening. All Members should be put on notice if the D'Amato amendment on capital punishment is withdrawn or disposed of or passed before 10 o'clock tomorrow morning, then we will be going to final passage at 10 o'clock tomorrow morning.

Senator WARNER and I will be here this evening for as long as necessary to handle these amendments. I had hoped and still hope, as a matter of fact, that we can notify Members at 7, 7:30 tonight there will be no more rollcall votes.

I still think that is entirely possible, but we are going to have to get some disposition of the Kennedy amendment on SIS, the Gramm amendment on registration related to healthcare personnel, and the Murkowski amendment on the Persian Gulf.

I notice the Senator from Alaska is now here. He has been patient, and I hope we can now bring that amendment up and perhaps deal with it in the next few minutes.

Mr. WARNER. The chairman stated quite accurately, as he always does, the status of the amendments. On the amendment of the Senator from Alaska, I would say my first inclination is that we should have a vote on this amendment. While it is the sense of the Senate or the sense of the Congress proposal, it, in my judgment, comes down with a sharply drawn policy decision with respect to this Nation's attitude toward Kuwait. I want to have the benefit of colloquy of Members on this before I make my final decision.

Is the Senator from Alaska desiring a vote? I think it is necessary, in my judgment. I would not want to speak for all my colleagues as manager in accepting this amendment, recognizing the import of the purpose here.

Mr. NUNN. Will the Senator from Virginia yield?

Mr. President, I agree with the assessment of the Senator from Virginia of this amendment. It may be something that I can vote for. I believe we do need the Foreign Relations Committee people here to take a look at this because clearly this crosses both Armed Forces and Foreign Relations jurisdiction.

The main concern, I will say to the Senator from Alaska, I have, and perhaps he will address this, I am not certain we ought to be urging another that more Americans be put in the Persian Gulf at this point in time with the danger going on there. I know there are American there. I know we have American service people there. We will continue to have Americans there.

But for the Senate to basically say that we want more Americans there, although I would say in useful employment and very important employment, is something I think needs to be debated and discussed.

I hope the Senator will address that point, particularly the question of safety and whether we are urging Americans, basically more Americans, to move in harm's way. But I will be listening to the Senator's explanation on that. I thank the Senator for yielding.

Mr. WARNER. Mr. President, it seems to me we might as well advise our colleagues now, either the author of the amendment or I or others will ask for a vote on this.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my colleagues from Virginia and the floor manager for the brief colloquy on the amendment which the Senator from Alaska intends to offer.

AMENDMENT NO. 2090

(Purpose: to express the sense of the Congress that Kuwait should make greater efforts to bear its proportionate share of the costs of protecting commercial shipping in the Persian Gulf)

Mr. MURKOWSKI. The specific purpose that the Senator from Alaska hopes to achieve by a free-flowing discussion concerns the merits of the tenure of our position in the Persian Gulf.

I think it is appropriate at this time, Mr. President, to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2090.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill add the following new section:

SEC. . KUWAITI BURDEN SHARING.

(a) The Congress finds that—

(1) United States naval forces are protecting the shipment of Kuwaiti produced crude oil through the Persian Gulf;

(2) eleven Kuwaiti tankers have been reflagged by the United States for the purpose of ensuring that such tankers are entitled to United States naval protection;

(3) Kuwait derives significant economic benefit from U.S. naval protection and from the reflagging of its tankers;

(4) Kuwait has invested a portion of the proceeds from the sale of its crude oil in United States domestic crude oil reserves and refining capabilities;

(b) It is the sense of the Congress that—

(1) Kuwait should make a greater effort to bear its proportionate share of the costs of protecting commercial shipping in the Persian Gulf;

(2) Kuwait should, to the maximum extent possible, employ United States mer-

chant marine personnel to man its tankers reflagged with United States flags of convenience;

(3) Kuwait should, to the maximum extent possible, charter idle United States crude oil tankers to transport a portion of its domestically produced crude oil.

Mr. MURKOWSKI. Mr. President, what the Senator from Alaska is attempting to bring to light at this time is the role of Kuwait with regard to the realization that the United States is certainly carrying more than its share of the Persian Gulf. The amendment specifically expresses the sense of the Congress that the Kuwaitis should make a greater effort to bear a larger proportionate share of the costs of protecting commercial shipping in the Persian Gulf.

Mr. President, this does not seem to be a one-sided issue in the sense of the benefits because we all know that the Kuwaitis have the best of both worlds.

Currently, they have 11 of their tankers flagged under the flag of the United States. Still, those tankers are carrying Kuwaiti oil to market. But they are carrying that oil to market, Mr. President, under the protection of the U.S. Navy.

Is it irresponsible that this Congress should question the contribution that the Kuwaitis are making? Should they not make a contribution to the maximum extent possible? And how can that contribution best be addressed?

Mr. President, I ask for order at this time.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. The question is: To what extent should the Kuwaitis contribute and how can that contribution be best effected?

The sense-of-the-Congress resolution suggests that the Kuwaitis could employ United States merchant marine personnel to man their tankers. Now, we already know that we have made exceptions on 11 tankers, but it is important to note that we have two American crew members on each tanker: We have a licensed U.S. captain and a radio operator. And these are requirements in compliance with the law.

The question of why we do not man those tankers with U.S. personnel has been raised by the floor manager, and the issue has been the suggestion perhaps this puts the U.S. sailors in harm's way.

That is certainly a legitimate concern, but when one considers the realization that we have currently in the Persian Gulf 14,000 military personnel and 29 naval warships protecting an expanded number of vessels, I think it is important at this time to point out that we have expanded our assistance in the Persian Gulf not only to cover our own 11 vessels that have been reflagged—and sources from the Department of Defense indicate that our new policy will be to provide assistance to any nonbelligerent ship not carrying contraband, not trading with the belligerent in international waters if it is attacked, if it requests assistance, if our vessel is in a position to help and is not involved in another task—in other words, Mr. President, we have expanded our position in the Persian Gulf substantially. We basically offer assistance to all friendly nations in the Persian Gulf.

So one wonders why, indeed, are we not involved in having American seamen on our U.S. ships.

Well, I think as we reflect on the merits of the issues before us, we should consult with the people who are responsible for providing merchant seamen on U.S.-flagged tankers, and I ask unanimous consent to have printed in the RECORD a letter of February 9 addressed to President Reagan from the National Marine Engineers Beneficial Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION,
Washington, DC, February 9, 1988.

Hon. RONALD REAGAN,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: On behalf of more than 50,000 American merchant mariners, both officers and unlicensed, we urge that your Administration not proceed with reported efforts to waive the manning portion of the recently-enacted Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987.

This Act, now P.L. 100-239, was passed by the Congress in order to close a loophole created by a 1985 Coast Guard interpretation of 46 U.S.C. Sec. 8103 that permitted the use of non-U.S. crews, with the exception of the Master, instead of U.S. citizens, on board the Kuwaiti vessels reflagged last year. Had this loophole not been closed, it would have undermined much of the U.S.-flag merchant fleet by setting a precedent that could have been used by others to obtain the benefits of the U.S. flag without assuming many of its responsibilities. It also could have resulted in cargo diversions to Canadian ports that would have severely impacted U.S. ports on both coasts.

We now, however, understand that your Administration is seriously considering waiving, on national defense grounds, the provisions of P.L. 100-239 in the case of the eleven reflagged Kuwaiti tankers. We believe that such a waiver is unjustified for reasons of national defense and not supportable in law unless there is a Presidential declaration of a national emergency.

As regards national defense, there simply is no military basis for these reflagged Kuwaiti vessels not to have all American crews. All American crewing would enable these vessels to be under real, not imaginary, American operational control if these vessels were needed for the U.S. flag. The presence of nearly all non-American crews certainly does not enhance the military or operational effectiveness of the individual vessels. And, American merchant mariners are available and ready to fill every position on these vessels. Indeed, we have made the point over and over again that, as we have demonstrated throughout our history, our mariners are second to none in answering the call to our nation's defense.

Some will claim that a national defense waiver is justified because the Kuwaitis want it that way. This appears to us to be a clear case of the tail wagging the dog. On a mission where thousands of brave young Americans are putting their lives on the line, it simply does not seem right that Kuwait should also be able to dictate that we change our long-established laws simply to make a better bottom line for the ledger of the Kuwaiti national shipping company. Perhaps last year, when the vessels were reflagged, there may have been some nervousness as to whether insistence on U.S. crewing would drive the Kuwaitis into the arms of the Soviet Union. But today, after many months in which U.S. protection is functioning well, we find such worries to be unsupportable. It is inconceivable that the Kuwaitis would tilt toward the Russians because we, in response to the clear will of the Congress, replaced all, or on a phased basis, foreign crews with U.S. crews.

Indeed, we make the case instead that a waiver now for these Kuwaiti vessels undermines rather than strengthens our defense. It results in the loss of employment for more than 500 American merchant seamen. It sets a precedent for further waivers that, once granted, can be twisted to cover every commercial or diplomatic occasion. And it sends a message to all concerned that the American merchant marine is expendable, a message that runs counter to numerous U.S. Navy studies as well as the reports of your Commission on Merchant Marine and Defense, all of which emphasize that the shortage of U.S. crews is now and will be in the future a major national defense liability.

As regards the legal case for such a national defense waiver, we find that it does not exist. Nowhere in Title 46 U.S.C. is there authority for a waiver, in view of the fact that U.S. crews are ready and available, except in the case of a "proclaimed national emergency." So far, none has been declared in the current Persian Gulf shipping crisis.

We urge, therefore, that your Administration not proceed with a national defense waiver for the reflagged Kuwaiti vessels. We accept and support the need to be able to waive provisions of law when national defense is truly at stake and when it is done in accordance with the provisions of that law for such a waiver. We believe, however, that such a waiver at this point would merely be for diplomatic convenience at best and, indeed, could harm our nation's defense in the future.

We thank you for your consideration of this matter.

Sincerely yours,
C.E. DEFRIES,
President, National Marine Engineers' Beneficial Association.
SHANNON J. WALL,
President, National Maritime Union.

Mr. MURKOWSKI. I ask the attention of my colleague, the Senator from Georgia, because he has raised the question specifically as to whether or not it is appropriate we consider putting at this time American sailors and American ships in the Persian Gulf.

It reads as follows, and I will just quote the pertinent part:

On a mission where thousands of brave, young Americans are putting their lives on

the line, it simply does not seem right that Kuwait should also be able to dictate that we change our longstanding laws simply to make a better bottom line for the ledger of the Kuwait national shipping company.

And I read the previous paragraph:

As regards to national defense, there simply is no military bases for these reflagged Kuwaiti vessels not to have all American crews. All American crews would enable these vessels to be under real, and not imaginary, American occupational control if these vessels were needed for the U.S. flag.

The presence of nearly all non-American crews certainly does not achieve the military or operational effectiveness of the individual vessels.

And this is the important part, Mr. President:

And American merchant mariners are available and are ready to fill every position on these vessels. Indeed, we have made the point over and over again that as we have demonstrated throughout our history our mariners are second to none in answering the call to our Nation's defense.

I think that in itself cites the case for the American maritime people who would man these ships if they were given the opportunity to do so.

Now, I recognize, Mr. President, that we have already made a deal with the Kuwaitis. We have agreed to go so far as to license for captains and radio operators and no further, but I think we ought to reflect a little bit more on the inequity in existence when we recognize again the question of contribution from the standpoint of the Kuwaitis and our own Nation.

The beneficiary of the oil clearly is not the United States. Approximately 56 percent of the oil in the Persian Gulf ultimately finds its way to our friends in Japan, about 35 percent to Eastern Europe, and about 6 to 9 percent to the United States. We are paying a price in the Persian Gulf, Mr. President. That price is about $130 million a year. We have 29 naval warships in the area at this time and, as I have indicated, 14,000 military personnel.

When we get down to the question of Kuwait and what their attitude has been so far, we have to recognize that they have refused to employ American tankers and American seamen in their trade despite the fact that our seamen are not employed and that we have many tankers that are lying idle. To suggest that we do not have American tankers ready, Mr. President, is incorrect. We have a number of them, including the *Atlantic* at 404,000 deadweight tons, the *Pacific* at 404,000 deadweight tons, the *New York* at 258,000 deadweight tons, the *Maryland* at 264,000, the *Massachusetts* at 264,000, and the *Williamsburg* at 225,000. Most of these tankers, Mr. President, were built with U.S. construction subsidies.

Now, we were almost successful in leasing one tanker, and I will get into that in a few minutes because I think this body deserves to know the extent to which our Government went to try to lease this tanker and the results. I think it justifies consideration of the pending amendment of the Senator from Alaska.

In October 1987, Chesapeake Shipping Co., which is wholly owned by a Kuwaiti oil tanker company, won bidding for charter of the American vessel, the *Maryland.* And this came about as a consequence of a great deal of effort of the Senator from Alaska and others to try to encourage some U.S. participation in the Persian Gulf in the commercial carriage of crude oil. As we know, the *Maryland* was built with U.S. construction subsidies and MarAd had to foreclose on the *Maryland.* The terms of the charter that were undertaken would be that the Chesapeake Shipping Co. would pay a total of $5 million for a 2-year bareboat charter. That was broken down as follows: $2.5 million for drydocking and repairs and $2.5 million for the use of the vessel. The proposal required—and it was agreed upon by all parties—that the vessel, which was a U.S.-flag vessel, would carry a 100 percent U.S. crew. Now, MarAd went ahead and began the repairs in December. Most of the repairs had been completed. MarAd determined an additional $1 million in repairs would be needed, but the Kuwaitis would not agree to an additional $1 million in costs, nor would they agree to extend the charter to amortize the cost for 1 more year and as a consequence, Mr. President, the deal collapsed.

Now, MarAd had to pay $3.5 million for the repairs that were done and then had to put up the *Maryland* for rebid.

So, Mr. President, there has been more than just discussions on putting U.S. crews on vessels to be chartered by the Kuwaiti Government. Indeed, an agreement was reached, and the reason that the agreement was not finally put through was simply a matter of the Kuwaitis' figuring that it was cheaper to continue using their own ships. It was an economic reason, Mr. President. The plan with regard to the *Maryland* was for the U.S. taxpayer to pick up the costs and hope that we could recover somehow in a pending sale of the tanker *Maryland.*

There are two other MarAd vessels, the *Massachusetts* and the *New York.* These could be available if indeed repairs would or could be made.

But the point we have to reflect on is that we have already initiated discussions. We simply let our guard down and did not follow through.

Further, Mr. President, when we consider the changing role of Kuwaiti investments in the United States, I think it causes us some justification for reflection. Using funds derived from trade and commerce, namely oil, protected by American lives, ships, resources, and money, the Kuwaiti Government is quietly buying up assets in this country. That is what free trade is all about, Mr. President. The Senator from Alaska is supportive of that. But I think we must recognize the change from what previously was a situation where the United States had a strong and healthy domestic producing capability as well as a refining capability.

The Kuwaiti Government is coming to the United States and buying up refineries. There is nothing wrong with that, but it does reflect on our energy security.

We are seeing the Kuwaiti Government come in and purchase 100 percent of Sante Fe, International, an energy company with $1.4 billion in 1986 revenues. Again, there is nothing wrong with that. We find that the Kuwaiti Government now owns one-fifth of BP of America, which owns 100 percent of the Standard Oil Co., which owns 50 percent of the oil produced from Prudhoe Bay.

The point is we are now seeing foreign ownership taking a very significant position in our refining crude oil capacity, and as we look at the tradition of the OPEC nations where they have attempted to strangle the production of oil in order to create scarcity to get the price up, we are seeing that ownership transfer to the United States. I think it is something that should cause us a good deal of reflection as we consider our energy policy.

The Senator from Alaska raises this point simply to share a point of view that, indeed, oil moves very rapidly and as a consequence of that movement foreign ownership of our own domestic oil industry and refining capacity can come about in a very rapid manner.

Some have suggested that, well, we do not have adequate individuals in our maritime industry available to take some 500 jobs that could be created if we took the 11 tankers that have already been reflagged and put U.S. crews on them. Well, in 1986, it is estimated that somewhere between 15,000 and 20,000 unemployed maritime union members were available to go to sea in all capacities on these vessels.

One wonders as well why some of these personnel would not find jobs on the available U.S.-flag ships such as the *Maryland* or the *Williamsburg* that would like to be utilized in the trade.

I think we have been able to cite some of the specifics with regard to the availability of adequate personnel to man the ships. I think we have made a point with regard to the fact that we have already negotiated to utilize merchant vessels but we have simply failed to maintain the leverage. And that leverage is based on the fact that we have our Navy over there pro-

tecting friendly nations, and, there is the question of why not have some of our own ships.

We noticed the British are over there hauling oil in British tankers. We have noticed that the Soviets have had vessels in the area but not the United States. We do not have a merchant ship in there because of a fear. And that fear seems to be based on the fact that we are putting some of our seamen in dangerous positions yet our seamen have countered that their interest is in jobs. When we look at the record over there, Mr. President, we find that the Iraqis and the Iranians have been constantly going back and forth on each others ships and the platforms and shore base facilities. Yet of all the ships fired on over the last several years, there is only one record of a small ship being sunk. I do not mean to say that we should put our seamen in harm's way by any means but by the same token where is our obligation? Do we have an obligation to participate to some extent to the carriage of that oil? The Senator from Alaska happens to think that is the case.

Mr. WARNER. Could I ask a question?

Mr. MURKOWSKI. I would be happy to respond.

Mr. WARNER. The merchant seamen in the history of this country have never feared going in harm's way, and there is a long record of courageous activity by these men over the years.

Mr. MURKOWSKI. The Senator is correct.

Mr. WARNER. But I am not sure as I listened carefully to the argument. Is it that they applied for jobs aboard these reflagged ships and were denied the jobs for some reason?

Mr. MURKOWSKI. No.

Mr. WARNER. Or is it the Senator is anxious to have some American-owned, American-flagged vessels incorporated in the original concept of 11?

Mr. MURKOWSKI. First, there are two considerations. Under the reflagging agreement that we went into where we took the 11 Kuwaiti ships, there had to be a waiver that was requested by the Secretary of Defense. That waiver was granted, and the unions appealed the authority of that waiver. And the court determined that indeed that waiver was justified. That waiver was allowing a limitation of a captain and a radio officer on those ships. That was all. The law requires that if those ships ever touch a U.S. port, they will have to be full of U.S. crude.

But the Senator from Virginia and the Senator from Alaska know that indeed those ships will never touch a U.S. port. The point is the Kuwaitis would much rather use their own people or crews from other nations on those ships than take United States sailors and put them on those ships because the cost is much less to use foreign sailors.

The point that the Senator from Alaska is trying to communicate to his colleagues is why the Kuwaitis when pushed a little bit partially negotiated for the *Maryland,* and then decided that it was uneconomic to proceed with an American-flagged ship other than the 11. And as a consequence the Senator from Alaska recalls the Kuwaiti Ambassador coming to his office and explaining to the Senator from Alaska why they were not going ahead with the charter of the *Maryland.* And the *Williamsburg* was also proposed at that time.

The Kuwaiti Ambassador simply said it is an economic issue only, in other words, advising the Senator from Alaska it is much cheaper to use his own ships.

But we have American sailors on the beach.

Mr. WARNER. Mr. President, I certainly understand that. My State is a maritime State. Indeed, I know full well the extraordinary unemployment among our merchant sailors at this time.

I wonder, Mr. President, if the Senator would yield the floor at this time so I could make a few comments.

Mr. MURKOWSKI. I would be happy to yield.

Mr. WARNER. First, a procedural one. Does the Senator wish to have a call for a vote? If not, this Senator will because I think Senators should examine this amendment with great care, and I believe it is not the proper authority for the manager to accept this because it is a very important amendment. I have not had the opportunity to discuss it with a number of my colleagues. So my first question is does the Senator intend to ask for a vote?

Mr. MURKOWSKI. I would like to have a bit of a colloquy.

Mr. WARNER. I am not suggesting a tabling. I would just simply ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. EXON. Mr. President, objection. At the appropriate time, the Senator from Nebraska intends to move to table.

Mr. WARNER. I once again just ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, Kuwait now provides fuel for the United States operations over there up to around $5 million a month. These are just some of the things Kuwait is now doing to facilitate the operations over there. Once our convoys enter Kuwaiti territorial waters, Kuwait provides escort, and then when we require security protection of United States ships in Kuwaiti ports, the Kuwaitis provide that protection.

So I wish to have the record reflect that there are, I think, some contributions by Kuwait to the overall operation in the gulf at this time.

As yet I am still undecided as to how this Senator will cast his vote because I am concerned like the Senator from Alaska with respect to the unemployed members of our merchant fleet, and recall very well how the Senator has fought for over a year now for the very principles that are embraced in the amendment.

Mr. MURKOWSKI. I wonder if my friend from Virginia would respond to the sense of the resolution. The resolution does not mandate that the 11 Kuwaiti vessels that have been United States flagged be United States crewed.

It simply urges the Kuwaitis and the Kuwaiti Government to be sensitive and try to do more to the maximum extent possible to employ United States merchant marine personnel to man its tankers or reflagged tankers with United States flags. In other words, it would seem to me that it would be in our best interests—and I appeal to the Senator from Virginia because he is very knowledgeable in these matters, having been in the Navy, and a former Secretary of the Navy. And the situation that we have in our Nation where it is important that we maintain a stronger merchant fleet. That includes a merchant fleet of tankers. Is it not appropriate that we ask our friends to cooperate a little more fully in helping us maintain that capability?

Mr. WARNER. Mr. President, I share that with the Senator from Alaska. Indeed, that is one of the reasons I have attempted at this time to vote for his amendment. But I just do not want this amendment interpreted as being sort of a critical attack on Kuwaitis' participation thus far in our overall gulf operations.

Indeed, I think they should have in the past facilitated some of our merchant marine interests and hopefully will do so in the future. But the record should reflect that they are participating like the other Gulf States in quiet ways, and in some way overt ways to the facilitation of our military activities in that area.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will be making a tabling motion although I do not wish to cut off debate prematurely on the Senator from Alaska.

I am wondering if we might facilitate the movement ahead of the bill, and begin to clear the deck on the other very important matters that have been discussed by entering into a time agreement with the Senator from

Alaska that we would agree not to table if he would agree to say 5 minutes additional time equally divided, 5 minutes controlled by the Senator here in opposition, and 5 minutes additional for any rebuttal or further statements that the Senator from Alaska could make. At that time I would move to table, and ask for the yeas and nays.

Would some arrangement like that be satisfactory? I am not proposing it now. I am asking the Senator from Alaska if some accommodation along those lines would be acceptable to him.

(Mr. REID assumed the chair.)

Mr. MURKOWSKI. I thank my friend from Nebraska.

I remind the Chair that when initially we were discussing the proposed plan for the amendments, I had asked for an hour, equally divided, and that seemed to have been agreeable.

I understand that we are not under any firm commitment, but I had hoped that the floor manager, the Senator from Georgia, and I could have a bit of a colloquy.

I think what we are doing here is not an effort to criticize the Kuwaitis, by any means, with regard to what they have done. They have done many things. They are doing more. By the same token, when they come into a Senator's office and suggest that the reason they did not use American vessels with American crews is simply the economics; when we recognize the commitment of our Navy, the fact that we have lost already a number of men on the *Stark* and we have lost two men in the helicopter that went down; and they communicate to us that their concern is that, "Our economics are not favorable enough"; when we have 25,000 union personnel ready to go to work and they are excluded from participating in the carriage of oil—I do not want to sound mercenary in the sense that this is a commercial enterprise in the Persian Gulf, but let us recognize that without the U.S. Navy escorting all friendly nations, there would not be any commercial activity in the Persian Gulf.

I can understand the merits of the British and the Soviets using their vessels and their crews, but I cannot understand the lack of commitment by this administration and, very frankly, by my colleagues on the merits of not urging the Kuwaitis to go out and charter some American vessels that were built with taxpayers' money, where we have already done the repairs, and they backed out because they said it was not economical. I think we would be sending a devastating signal.

Mr. EXON. Mr. President, I am not trying to cut off the Senator from Alaska. I asked him a question, and I have not received an answer to the question. I received more of the same that I have been listening to with great interest for about a half hour.

The question of the Senator from Nebraska—as long as I have the floor—is that I would very much appreciate a response from my dear friend and colleague from Alaska: Is he interested in a time agreement now, before I move to table the amendment, before I lost my right to the floor?

Mr. MURKOWSKI. I had hoped to enter into a colloquy.

Mr. EXON. The Senator has a colloquy with the Senator from Virginia.

Mr. MURKOWSKI. I had hoped to have a colloquy with the Senator from Georgia, or I will be happy to have a colloquy with the Senator from Nebraska on the merits.

Mr. EXON. I think it is important that we move ahead. I want to give the Senator from Alaska an opportunity to make any points he can. I think he has made some pretty good points.

I simply propose, in connection with the previous arrangement that was suggested, that there be 5 minutes of further debate, 10 minutes in total, equally divided, between the Senator from Nebraska and the Senator from Alaska, and that at the end of that time, which would be approximately 6:25, the time would expire, and at that time I would be recognized for the purpose of making a tabling motion and asking for the yeas and nays.

I propose that unanimous consent agreement.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object—and I may object—the Senator is proposing a tabling motion unless he has the time agreement.

Mr. EXON. I am giving my friend and colleague from Alaska every opportunity to come to some kind of agreement. I am simply telegraphing, sending a clear message, call it what you will, that if I cannot get some kind of agreement, since I have the floor, I will make about 5 minutes of remarks and I will proceed to move to table the amendment, under the rule.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. MURKOWSKI. Reserving the right to object——

Mr. EXON. Mr. President, I think that the Senator from Alaska has made a good point, but I think it is very wrong for the U.S. Senate to micromanage the serious affairs in the gulf. Certainly, the President of the United States and the administration have full authority to do what they want right now, if that is what the administration thinks is in the best interests of carrying on our policy in the gulf.

I would simply say that the bottom line of this amendment, as well meaning as it is—and I certainly understand the frustration and appeciate the frustration of the Senator from Alaska, when the Kuwaitis tell him what they obviously did in his office, and I believe him. We have had less than total cooperation from the beginning from some of our allies in the gulf on a whole series of matters, not only who is going to sail their tankers, to carry their oil out of their country, under our protection.

I simply say that I think what we would be doing if we were to accept the sense-of-the-Senate resolution offered by the Senator from Alaska would be to put even more Americans in harm's way. If a Kuwaiti tanker is sunk now, even if that tanker is under the protection of the United States Navy, I cannot see how it would improve the situation to have 5, 10, 15, or 20 more Americans on that particular ship, even though they are God-fearing and unafraid American seamen.

I think one of the real problems with the gulf today, if we want to attack it, and I have not, is that there is too much money and economics involved in that war, as there always is in war, without enough consideration for the human sacrifices being made, especially by the men and women of the U.S. Navy who are there today, under great risk to themselves.

The amendment clearly would get us more involved in the gulf, with a higher risk of more American lives. I suggest that with all the other complications we have, this is not a step that is wise for us to take at this time.

I again emphasize that I can appreciate the concerns of the Senator from Alaska. He has been a very able and determined supporter of the rights of American seamen, which we all endorse. I think we all join in this concern.

I just feel that on the Defense authorization bill, we should not be telling the administration that they should see to it that the Kuwaitis put more American seamen on Kuwaiti vessels that are already at risk. It makes no sense to me, despite the fact that I wish we had more jobs for our seamen and our merchant marine.

Mr. President, I emphasize that the administration has the authority to do what the Senator from Alaska is proposing in this sense-of-the-Senate resolution. Therefore, it would have no effect in law. It would have the effect, I suggest, of the U.S. Senate further micromanaging the already-troubled situation in the gulf.

I would simply say that I do not believe that the interests of the United States overall would be served with the adoption of this amendment.

Mr. President, I move to table the amendment offered by the Senator from Alaska.

Mr. MURKOWSKI. I wonder if my colleague will withhold the tabling motion until I propose an alternative.

Mr. EXON. I will withhold my motion so long as I do not lose my right to the floor.

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. Mr. President, I will withhold temporarily my tabling motion without losing my right to the floor.

The PRESIDING OFFICER. Is the Senator asking unanimous consent that he be able to maintain the floor pending the motion?

Mr. EXON. I ask unanimous consent that the Senator from Nebraska be allowed to retain the floor during the ensuing discussion with the clear understanding that I am yielding only for the purpose of questions and discussions that I think might be in order preceding the tabling motion which I intend to make and am withholding that now which I could legitimately make under the rules only because I want to give every consideration possible to my friends and colleagues.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Nebraska maintaining the right to the floor?

Mr. MURKOWSKI. Mr. President, I reserve the right to object, and I ask if it is possible at this point to suggest the absence of a quorum.

The PRESIDING OFFICER. Yes, only if the Senator from Nebraska would yield for that purpose.

Mr. McCAIN. Will my friend from Nebraska yield?

Mr. EXON. I would simply say that it is very clear that there are some individuals who do not want the tabling motion. I telegraphed my punch. I was honest with my colleagues. I am about to make a tabling motion and I do not want anything to get in the way of that.

Now, if there is a request to withdraw the amendment and if we could save the tabling motion I would be fully reasonable and wait for that particular purpose.

Is there a request for me from either one of my colleagues, without losing my right to the floor? I ask the question of my colleagues without losing my right to the floor. Is there a request at this time that I would be glad to yield for the purpose of withdrawing the amendment? I am glad to yield for an answer to my question from the Senator from Alaska without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Nebraska yields to the Senator from Alaska for a question.

Mr. MURKOWSKI. I thank the Chair.

I ask a question: In view of the point that our colleague from Nebraska brought up on the idea of micromanaging, nobody wants to micromanage the responsibilities of the administration, but I am sure my friend would agree that the matter of having a strong domestic maritime industry and a strong merchant marine is important. When we have an opportunity to participate in some area of the world, why, I am sure my colleague would agree that it is appropriate that we also have tankers and well-experienced merchant mariners to carry that oil. And while I appreciate his consideration for putting them in harm's way, none of us want to see that, but we also have our Navy over there.

So, my purpose was to send a message to Kuwait. I think the message has been sent with the dialog that has taken place.

It would be the intention of the Senator from Alaska to recognize a parliamentary procedure to withdraw the current pending sense-of-the-Senate resolution with the intention of perhaps seeing what the Kuwaitis' response was to utilizing American vessels that might be available for hire and American merchant sailors.

So, I would ask my colleague from Nebraska if he would agree to a unanimous consent withdrawing the amendment by the Senator from Alaska at this time, with the clear intent that the Senator from Alaska would look to see what would take place during the next few weeks to see if this colloquy has had any impression whatsoever on the Government of Kuwait to become more involved in utilizing American vessels and American seamen?

Mr. EXON. I would certainly agree with my colleague from Alaska, as I said earlier. There is a problem here. If he wishes to explore other ways to solve this problem, I would encourage him to do so.

The PRESIDING OFFICER. There is a unanimous-consent request before the Senate. Is there objection?

Mr. EXON. I would be happy, without losing my right to the floor, to yield back once again, if it is the wish of the Senator from Alaska to withdraw his request, with the caveat that he outlined that he would pursue other matters in the future to bring the legitimate concern he has in this area to a head with the Government of the United States, and if need be, the Government of Kuwait.

Mr. MURKOWSKI. I, therefore, ask unanimous consent to withdraw my amendment, and I thank my colleagues from both Nebraska and Arizona.

I would put my colleagues on notice of the intention of the Senator from Alaska to communicate with the administration and the Kuwaitis and see what the intention is. We always have an opportunity for anothhr vehicle, perhaps the Department of Defense appropriation.

I thank the Chair.

Mr. EXON. I thank my friend from Alaska, and I hope the Chair will allow the withdrawing of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The request of the Senator from Alaska is agreed to.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2091

(Purpose: To authorize additional funds for the product evaluation activity for fiscal year 1989)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 2091.

Mr. GARN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 2 and 3, insert the following new section:

SEC. . PRODUCT EVALUATION ACTIVITY.

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 816 of this Act.

Mr. GARN. Mr. President, this is a very simple amendment that has been agreed to by both the majority and the minority to increase the product evaluation function from $15 million to $17.5 million.

There are no other aspects of the amendment. The law stays exactly the same as it is with the authorization. It is just an increase of $2.5 million.

Mr. EXON. Mr. President, the amendment that has just been sent to the desk by the Senator from Utah has been cleared on this side. We think it is a good amendment, and we are prepared to accept it forthwith.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Arizona.

Mr. McCAIN. Mr. President, on this side we think this is an excellent amendment by our esteemed colleague from Utah and we support it.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I rise to support the amendment offered by Senator GARN. What my colleague from Utah proposes is totally consistent with the policies set forth by the Congress; seeking procurement of defense hardware that is superior technologically while costing less to

produce. The antenna system that is the focus of the Senator's amendment more than meets that criteria.

The Eyring Antenna System represents a quantum technological advancement in military communications and is so new and unique that many well informed experts in this field are still unaware of its existence or availability. It was fully verified and proofed through a variety of exhaustive tests by different miliary users, the antenna, though an off-the-shelf item, remains unavailable to the field commander because it has not been fully integrated into the DOD procurement program.

With adoption of this amendment, we can make it possible for DOD to realize substantial dollar savings without incurring any development costs, while at the same time providing the military with a vastly superior and more robust communications capability.

I urge my colleagues to join Senator GARN and I in voting aye on this very important issue.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2091) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I would like to engage my friend from Nebraska in a discussion over an issue that has been discussed in the committee. I had intended also to discuss this with the distinguished chairman, Senator NUNN. Since he is not available at this time and my friend, Senator EXON, is very well versed on this issue, I would like to engage him in a short colloquy in expressing my concerns about the issue of title IV of the DOD Reorganization Act which is that requiring certain tours of duty in joint staff by officers of the military in order to be eligible for promotion.

I would like to start out by saying that Senator NUNN and his staff, the distinguished majority staff, have worked long and hard on this issue, and I am very appreciative of their efforts.

Mr. Punaro and Mr. Locher are very aware of the gravity of this situation and have worked in conjunction with DOD and our House colleagues in trying to make some changes which in this Senator's view are much needed.

Mr. President, this issue deserves special attention. I think that the reforms that were made in the Defense Authorization Act, the so-called Goldwater-Nickles Act are very, very important, but I did not think they change the basic structure of the original act.

I believe, in my view, that the act is far too complex and micromanages the promotion of our officers in a way that interferes with combat assignments, forces early selection for flag rank, and is producing real hostility to joint duty tours, which is exactly the opposite from what we intended. We do not want the military officers to view joint duty as a punishment tour. We want it to be a tour of learning and experience which would qualify them for higher command.

This act still requires tours of duty that are far too long. A 2-year minimum assignment does not mean that tours are only 2 years long, but it gets rid of major personnel perturbation. The current tours not only create major problems in terms of their length but require special training.

They do not recognize service in many forms of joint combat action such as Libya or Persian Gulf.

They force the officers who are not selected into longer tours. This can present serious problems in many areas, such as extended overseas duty or sea duty. The net result does not lead to an improved officer corps, but a force ticket-punching for many officers that has just the opposite result of what the act intends.

I understand the strong feeling of some Members of the House on this issue but, in moving toward, conference, I think we need to do everything possible to ensure that all of the reforms suggested in this year's Defense Authorization Act are agreed to by the House. I think we also need to move toward a much simpler bill based on 2-year tours of duty. I think this would accomplish all the intentions of the original act and make any joint duty meaningful and popular.

My point, I say to my colleague from Nebraska, is joint duty is necessary to prepare people for positions of major command and in the decisionmaking process. What I am afraid we did in a very zealous and well-intentioned effort in the Goldwater-Nickles Act was basically micromanage to such a degree that throughout the officer corps now some of this duty is being viewed as punishment rather than an opportunity to learn and advance.

I am pleased at some of the changes that have been made in the authorization bill. I hope my friend from Nebraska, who will play an important role in the conference, will agree, along with the chairman, to try to bring about the changes that are in our bill and convince our House colleagues of the importance of it.

I appreciate the indulgence and understanding of my colleague, Senator EXON.

Mr. EXON. Mr. President, the direct answer to my friend and colleague from Arizona is, yes, we do understand. I have discussed it with the chairman of the committee, Senator NUNN. We had, as he has properly alluded to, extensive discussions in the Armed Services Committee on this very point.

It has been the Senator from Arizona, I wish to say, who has been the point man, so to speak. We have listened to him extremely carefully on this because there is no one in the Armed Services Committee who has had the duty in the Navy under some of the most extreme conditions ever, both in command and in control, and a man who did work his way through, through his own efforts, the Navy and served with great distinction. We are all very proud of what he did. Therefore, we listened very carefully to the legitimate discussions and points that were made by my friend and colleague from Arizona.

I would point out, as I know he will agree, that we in our bill came forth with every request that the Department of Defense had made with regard to further improvement or fine tuning, as I think we might call them, on the historic Goldwater-Nickles Department of Defense reauthorization bill. We believe that further discussions and thought processes should go forward in this area.

There has not been total unanimity in the Armed Services Committee about shortening some tours of duty. But I, as one member of the committee, thoroughly endorse the concept that is the driving force, I believe, behind the actions taken by my colleague from Arizona, and that is to not have our tours of duty and rules for promotion so strict and so arcane that they do harm to the service and the people that serve in that service with great distinction.

So I simply thank my friend from Arizona for bringing this up. I assure him that it will receive further details and careful consideration when we go into conference with the House of Representatives on the bill before us.

Mr. McCAIN. Mr. President, I thank my friend for his kind remarks and understanding of what is a very important issue to all of us, especially to the officer corps in all branches of our military.

I also think it is well to point out that if we as a committee and if we as a body are going to act in a correct and mature fashion, we need better signals and a more coherent position from the Joint Chiefs. I think some of the confusion that the staff will attest to was generated by the fact that we were receiving mixed signals from the Joint Chiefs and from the Department of Defense itself which, in my view, created some needless differences of opinion. I hope, in the intervening time, we can get a clear signal as to an agreed upon position from the Depart-

ment of Defense which includes the chairman of the Joint Chiefs and the members of the Joint Chiefs of Staff.

So I thank my colleague again for his support and understanding of this very important issue, along with the staff and the distinguished chairman of the committee.

Mr. EXON. Mr. President, I could not agree more that a classic case has been evidenced in this particular episode by the fact that the Joint Chiefs and the Department of Defense have not gotten their act together. That, more than anything else, I think, complicated final disposition of this matter in the Armed Services Committee.

I repeat again, we will take a further look at this. I think it will be a very interesting discussion. Hopefully, we can come out of the conference with something more along the line that the Senator from Arizona has in mind.

Mr. President, I yield the floor.

Mr. President, what is present parliamentary situation? Does the Panama amendment recur, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The amendment offered by the Senator from North Carolina is in order.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I might say, speaking for my friend from Nebraska, we are waiting for further amendments that might be brought to the floor at this time. I would be glad to yield to the Senator.

Mr. EXON. Mr. President, would the Senator be good enough to put out a call so that all within the range of his voice will hear that we want to move this along? The Panama amendment is back up. If we cannot consider that, we could set it aside. If there are other amendments, which there are, please come and help us out.

Mr. McCAIN. Mr. President, we are agreeable to considering further amendments at this time, recognizing, it is my understanding under the unanimous consent, that we will have a vote on final passage of this bill at 10 o'clock tomorrow morning, and time is growing short.

NICARAGUA

Mr. McCAIN. In the meantime, Mr. President, I would like to discuss an issue that has not been ventilated too often lately on the floor of this Senate, but events move on and I think maybe it might be nice to give a little update as to what is happening down there in Nicaragua.

I might add that 9 months have elapsed since the so-called Arias peace plan was signed. According to that peace treaty, by the 1st of November last year, and then later the 1st of January, there was going to be implementation of the Arias peace plan completed which, among other things, meant full democratization, which meant the orderly proposal for free elections to be held and, basically, cessation of the activities that have led to so much tragedy there in Nicaragua and so much discord here in this country.

I am not sure if the Speaker of the House is following events in Nicaragua. I would like to just bring to light a few events that have taken place recently.

April 25—Permanent Congress of Workers (CPT) launch a hunger strike at the CGT-I (Independent General Confederation of Labor) headquarters to protest Sandinista non-compliance with promises to address construction and auto mechanics' grievances.

April 25—Construction workers who attempt to take a strike banner on to the field prior to a baseball game at the national stadium reportedly beaten and arrested.

April 26—Fourteen parties walk out of national dialogue talks with the government in sympathy with striking unions.

April 27—Special police unit ("Black Berets") attempt to occupy CTG-I union hall, prevent cars driving along road in front of building from stopping to make donations to strike fund collectors.

April 27—Approximately 100 Sandinista police gather outside the CGT-I building. At 10:00 am four workers (from the communist Labor Action and Unity Central—"CAUS") carrying signs supporting the hunger strike arrested and reportedly beaten. Police attempt to enter the building, but are blocked by crowd of trade unionists in front of building.

April 29—Interior Minister Tomas Borge assaults Radio Corporacion Director Jose Castillo for station's coverage of police actions against CPT hunger strikers.

April 29—Special police unit (the "Black Berets") forcibly clear protesting workers from the CGT-I parking lot. Several people were arrested, including (briefly) union leader Antonio Jarquin and others including Horacio Sandhez, top leader of the construction trades union.

April 29—Police disperse group of social democratic and conservative youth who arrive at CTY-I headquarters to support hunger strikers. Some reportedly were arrested.

April 30—Police line blocking entrance to CGT-I remains in place.

May 1—Five thousand march in CPT-sponsored rally, CTN (Nicaraguan Workers Central) May Day rally with 1,500 marchers disrupted by what appears to be turba harassment. Five minutes into a speech by CTN head and Coordinadora president Carlos Huembes he is surrounded by stick-wielding young men who, although wearing PSC and CTN sun visors, appear to be turbas. They threaten the crowd and break placards and banners with their sticks.

May 3—Antonio Jarquin and Roberto Moreno arrested along with a dozen other people for attempting to hold a press conference at the CGT-I hunger strike headquarters.

All entry and exists from the CGT-I building now blocked by police. Water, electricity and telephones shut off. Interior Ministry informs Radio Mundial its morning and noon news broadcasts suspended for one week.

Vandals break into Radio Mundial night of May 3, destroying control console and fm transmitter, breaking tubes and ripping wires. No signs of forced entry, nothing stolen.

May 3—Government suspends the following newscasts for eight days: Radio Catolica's "Iglesia," Radio Noticia's "El Pueblo," Radio Mundial's "El Nicaraguense."

Radio Corporacion shut down completely for 24 hours.

May 4—Police arrest opposition political leaders and release them in mid-afternoon. Sandinista police head Doris Tijerino declares regime will give no concessions to workers as long as the hunger strike continues.

May 5—Interior Minister Tomas Borge authorizes resumption of Radio Noticia's "El Pueblo" news broadcast. Managua's government Domestic News Service notes that the broadcast was "suspended for having aired false reports slandering the Sandinist police", then states that resumption of Radio Noticia's news broadcast "is evidence that freedom of expression is not repressed in this country".

May 7—President Oscar Arias responds to attacks against him by Nicaraguan government newspapers. The newspapers criticized Arias for having asked the USSR to stop sending arms to Central America. In responding to the attacks, Arias notes that "in the past few months, Nicaragua has received large arms shipments from the USSR, and this violates the Esquipulas II agreement". Arias describes the attacks against him as "typical of dictatorial regimes", adding that "we must remember that Nicaragua is a dictatorship".

Mr. President, there is an unmistakable crackdown. Repressive steps taken by the Sandinista government clearly indicate that they are not interested in pursuing in a realistic fashion negotiations toward a cease-fire and reintegration of the Contras into their society. They feel, and I am sure correctly, that the Contras are dramatically weakened and they will be able to prevail.

Let me just give you a quote carried in the New York Times today by President Daniel Ortega Saavedra:

The general's older brother said in a recent speech that talks with the Contras would have a limited agenda.

They think we are willing to discuss if there is going to be a revolutionary process or a counterrevolutionary process here, President Ortega said. This is not up for discussion.

What we are discussing is how the mercenary forces who are already defeated can lay down their weapons. They should be grateful that we are not offering them the guillotine or the firing squad, which is what they deserve.

That is a quote from the President of Nicaragua and I think it gives a

clear indication of the kind of commitment that they have to helping the Contras integrate into a free and open society.

Mr. President, I know the hour grows late. I think we may have a further amendment. So I will not take a lot of time. The fact is that in the eyes of the Contras and the rest of Central America this body—the other body, actually—has abandoned the Contras to the unseemly fate of the unwanted. We now see that the Nicaraguan Government has reneged on its agreements with the Miskito Indians. We now see that they intend to continue the course of the Marxist revolution. And the tragedy of all of this is that someday, Mr. President, we may be required to intervene militarily and use North American troops for what the Contra troops were doing pretty well; that is, fighting for freedom against an expansionist, Marxist, odious regime which has taken its nation into the depths of poverty and the depths of repression and oppression by a ruthless people who have betrayed the revolution.

With that I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I was here on the floor and heard my distinguished colleague from Arizona make what I thought were some very accurate and succinct points with respect to the so-called peace initiative in Central America. I think it is well to remember that we heard these same, same cries back in the seventies. That was "Give peace a chance." It has a nice ring to it.

We gave peace a chance in Cambodia and South Vietnam, and the Senator from Arizona is absolutely correct. If that is the kind of peace we are going to give to our fellow Americans in Central America, Nicaraguans, then I think that the greatest bastion of freedom on Earth is losing some of its luster, if we are not willing to stand up and help our fellow Americans achieve their own freedom.

I do not know what it will take for this Congress or a new Congress to recognize that Daniel Ortega and Tomas Borge and the other commandantes are no different from any of the rest of the Marxist-Leninist bandits that roam this Earth. They are no different, Mr. President.

The quote of Mr. Ortega should be a message that is strong enough for us Americans to recognize. When he says, "They are lucky they did not get the guillotine or the firing squad, that is what they deserved," what he is saying is the only reason we did not give them the guillotine or firing squad is because we are trying to stall off the support that Congress was giving to the contras.

In other words, it is manipulating U.S. foreign policy. I guess what saddens this Senator so much is that many of us were here on this floor predicting that this would be the outcome, predicting that would happen. Eventually, sooner or later, if the Marxist-Leninist commandantes are allowed to stay in power, they will consolidate that power; they will surround the Contras; they will ultimately kill the Contras, the freedom fighters that were friends of the United States and were fighting for not only their freedom, but for our freedom and for freedom, you might say, for all Americans in the North and South American Continent.

That is really what the issue is all about. I think the Senator from Arizona is probably correct. It saddens this Senator to think about it. We will probably be asking—we will be forced to do it, maybe not this President but the next President—to use American, U.S. American, boys to fight a battle that the Nicaraguan boys were fighting with our help. And they were doing well at it.

They had established command and control of their operations. They had established the ability to do large scale operations in the country. They were gaining control of the countryside. Many of those leaders that I talked to said that within a year they would have had Managua surrounded and had complete control of the countryside in Nicaragua.

They had support of 85 percent of the population of the Nicaraguan people. When the Senator from Arizona and I visited with Cardinal Obando y Bravo we asked him the question: How many people in Nicaragua do you believe support the Contras? He said at least 85 percent; without batting an eye.

Yet we come here to this Congress and we could never get the support for those people that had the support of the people from the countryside in Nicaragua.

So, now, Mr. President, we have made the situation worse, not better. Our options are less, not more.

We have tied the hands of the administration; we have tied the hands of the freedom fighters. We weakened the position that we were in. We made it more difficult to deal in the future.

I say, once again, as is all too often the case, the United States of America is preparing to snatch defeat from the jaws of victory. People may say it is not important, but it is important. If, in fact, the Soviets and the Cubans are able to ensconce another Soviet satellite nation in the mainland of the Americas—and they have done it, so to speak, in defiance of the United States of America, they have made us weaker, made them stronger, and they also give an outlet for the people in neighboring Panama to start strengthening their hand.

The people say: "Well, it doesn't matter if Nicaragua is a Communist country." I wonder if it will matter to those same people if Panama becomes a Communist country some day as that revolution is exported, or up to Mexico if we get a revolution going there? At what point will we be forced to commit troops, American troops, U.S. troops? That is really what the issue and question is.

It is unfortunate, I think, that this continues to go on. Every day there is another report of the situation deteriorating either economically or politically, and also from the standpoint of human rights in Nicaragua. The situation is deteriorating on a daily basis.

Mr. McCAIN. Will my friend yield?

Mr. SYMMS. I will be happy to.

Mr. McCAIN. First I would like to say my friend's remarks are extremely accurate and very important. I think it is important that he and I, and perhaps our distinguished friend from North Carolina and others, even though our cause may be lost in Nicaragua, in Central America, I think it is important that we make a record and remind this body frequently as to what is happening as we watch the situation degenerate into one of continued oppression, repression, and eventually the increased subversion of the neighbors of the country of Nicaragua, which goes on as we speak. Once the Contras are neutralized, in my view, it cannot help but be dramatically increased.

Let me also make a comment about a mutual friend of ours who has worked at the White House and before who worked for our distinguished former Ambassador to the United Nations, Jose Sorzano. According to press reports I read this morning, Mr. Sorzano is going to resign his position which he has held as an assistant to General Powell in the White House in working on Latin American affairs.

According to press reports, Mr. Sorzano is resigning because of his frustration with our inability to address this very difficult issue.

First of all, I would like to say I owe the highest respect and regard for Mr. Sorzano and the outstanding and dedicated work he has done for many years. I think not only I, but many Americans, are very appreciative of what he has done.

I would also like to remind my friend, Jose Sorzano, that it is very difficult for the administration to act if it is clear that there is no way that the House of Representatives will approve military aid. And that, I believe,

was the originator of the beginning of the deterioration of the Sandinistas as a fighting force. Unfortunately, we see that continue to this day.

I yield back to my friend from Idaho.

Mr. SYMMS. I want to say I concur with the comments the Senator from Arizona made about Mr. Sorzano at the White House.

I might say the unfortunate part of it is that most of the people who have been in and out of the White House over these past many years who have had a clearcut position on this issue have been frustrated, either frustrated by the inability early on of the administration to declare itself clearly to the American people on the issue or the Congress to fail to declare itself clearly. Many of them have moved on to other endeavors.

Of course, the Senator from Arizona makes the comment that it may be a lost cause. I would say most likely freedom is never a lost cause, whether it be in Nicaragua or the Soviet Union. As long as the pulse of liberty can beat in some people's veins, somewhere, sometime people will wake up and support those who are endeavoring to be free because it is only natural that people should live freely on this Earth.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT

(The Senator continued with consolidation of the bill)

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum cal be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2085

VOTE TO OCCUR AT 9:30 A.M. TOMORROW

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment by the Senator from North Carolina.

Mr. NUNN. Have the yeas and nays been ordered on that amendment?

The PRESIDING OFFICER. They have not.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. May I inquire of the Senator from North Carolina—I had to be in the Intelligence Committee—has that amendment been debated and presented?

Mr. HELMS. Yes, sir. I have said all I need to say about it.

Mr. NUNN. The modification has been agreed to?

Mr. HELMS. It has been agreed to on all sides. It has been modified.

The PRESIDING OFFICER. There is nothing at the desk indicating it has been modified.

Mr. NUNN. I believe the Senator should have asked his amendment be modified.

The PRESIDING OFFICER. Is that a unanimous-consent request?

Mr. NUNN. I ask unanimous consent that the amendment be modified as indicated by the amendment that is at the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

Add at the end of the bill the following new section:

"Sec. . a. None of the funds authorized or appropriated by this or any other Act shall be obligated or expended for assistance to the Panamanian Defense Force unless and until the President has certified to Congress that no armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama and that General Manuel Noriega has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.

b. Provided further that nothing in this Section shall prohibit the President from obligating or expending any funds necessary for the defense of the Panama Canal or for the maintenance of United States armed forces or interests in Panama.

c. Ten days after the enactment of this Section, the President shall provide a detailed report to Congress, in both classified and unclassified form, regarding 1) whether Soviet, Cuban, or Nicaraguan military, paramilitary, or intelligence personnel are present in Panama and 2) whether the Panamanian Defense Force has coordinated with, cooperated with, supported, or receive support from, such personnel.".

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from North Carolina.

Mr. NUNN. Mr. President, can we suspend for one moment?

Mr. President, I think it ought to be stated what the modification is briefly.

This is still an amendment that expresses strongly the Senate's concern about a possibility of armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua. It does terminate funds for any expenditure to the Panamanian defense forces unless the President has certified that those forces are no longer in the country of Nicaragua or in the country of Panama and that General Manuel Noriega has been removed as commander of the Panamanian defense forces, barred from all offices of authority, and prohibited from designating or appointing his successor.

We worked with the Senator from North Carolina, and I think he shares this objective. We added in paragraph b here in the modifications:

Provided further that nothing in this section shall prohibit the President from obligating or expending any funds necessary for the defense of the Panamal Canal or for the maintenance of United States armed forces or interests in Panama.

Then we also go foward and ask for a report 10 days after enactment from the President on these subjects. We deleted language in the original amendment which referred to the Panama combined canal Defense Board because we felt that that language was not appropriate here since that group does have some bearing and some relationship to the defense of the Panama Canal.

So we did take that out.

Mr. HELMS. That is correct.

Mr. NUNN. Does the Senator agree with that general explanation?

Mr. HELMS. That is correct.

Mr. NUNN. Mr. President, I believe that history is very clear and I ask the Senate agree to the amendment as modified.

I could say to Senators—the majority leader is on the floor—that we have had several inquiries as we do this time of night by Senators who need to get away, and we do believe this is the last rollcall vote we will require on this bill tonight. We have three or four other amendments we want to handle tonight. The Senator from Massachusetts has an amendment, Senator WARNER and I have an amendment, and Senator COHEN has a probable amendment, so we need to get as far along as we can tonight since we have a 10 o'clock hopeful passage tomorrow depending on the D'Amato amendment.

Mr. SYMMS. Will the Senator yield for a question?

Mr. NUNN. I will be glad to yield.

Mr. SYMMS. It was my understanding Senator DOLE had an amendment on which he wanted a rollcall vote.

Mr. NUNN. I am informed he is willing to make that one tomorrow morning.

Mr. SYMMS. I see.

Mr. NUNN. I am not excluding anyone. I am talking about the ones we can handle tonight. As far as the floor manager is concerned, I know of no other rollcall votes tonight. I am informed the minority leader has one tomorrow morning.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote occur on the amendment by Mr. HELMS, No. 2085, as modified, tomorrow morning at 9:30 a.m.

The PRESIDING OFFICER (Mr. BREAUX). Is there objection? Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, from what I understand in listening to the distinguished manager of the bill, this will mean there will be no more rollcall votes this evening but the managers would be here to deal with other amendments if Senators wish to call them up and possibly adopt them on a voice vote or if rollcall votes should be ordered, we would put those rollcall votes over until tomorrow.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think he responded to my question. I have an amendment. I am willing to accept a voice vote. I know there are a number of Senators away and we have bad weather outside, but if somebody should demand a rollcall, that would come in the morning?

Mr. BYRD. Yes.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the chairman and I thank Mr. HELMS and I thank the Republican leader and all other Senators.

Mr. NUNN. Mr. President, I thank the majority and minority leaders for helping to work this out, and I thank the Senator from North Carolina for being very flexible in working out this amendment. I think we have a good compromise and I will favor its passage tomorrow morning. We will have an up-or-down vote on the amendment pursuant to the unanimous-consent request.

Mr. President, it is very important Senators understand that tomorrow morning we are voting at 9:30 on the Helms amendment. I do not know what time the majority leader will have us begin. I will be here whatever time he suggests. We will not have a lot of time. We have a lot of amendments that have not been formally dropped. They are on the calendar. They are eligible to be called up. I hope they will be dropped. But Members need to understand we are going to be here tonight and we will be glad to take up any of those amendments and talk about them and see if we can work them out and, if not, put them over to tomorrow.

We have a Kennedy amendment we hope can be worked out and we hope he can present that this evening. We have a Dole amendment we indicated we think we can work out. We have an amendment that relates to the Appropriations and Armed Services Committees. If we can get Senator STEVENS and Senator JOHNSTON and Senator WARNER on the floor, we can get that one passed tonight. Senator COHEN has an amendment that we hope we can work out tonight.

And so we are going to be here and in business for the next 30 or 40 minutes. If we do not have Members show up and nobody comes, then we will be leaving here sometime in the next hour. But we will be in business and trying to get amendments Senators would like to bring up.

Mr. President, I yield the floor.

AMENDMENT NO. 2092

(Purpose: To prohibit expenditures for site preparation for the Special Isotope Separation project before March 1, 1989)

Mr. EXON. Mr. President, I send an amendment to the desk in behalf of Senator KENNEDY for himself and Mr. GLENN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebaska (Mr. EXON), for Senators KENNEDY and GLENN, proposes an amendment numbered 2092:

On page 249, between lines 20 and 21, insert the following new subsection:

(e) SPECIAL ISOTOPE SEPARATION PROJECT.—(1) Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

Mr. EXON. Mr. President, in the Armed Services Committee we had a lengthy discussion on the matter at hand.

We have had considerable discussion yesterday and again today. I am pleased to report that all sides involved in this have come to the agreement that we will satisfy the present problems we have in this area by the simple introduction of the one amendment that has just been sent to the desk. It has been agreed to I believe on both sides.

In addition thereto, a colloquy will follow. We will correct some of the report language in the bill in this regard. Essentially, all we are doing is moving up a requested report that the Armed Services Committee has made of the Department. That required report was originally in the report language in the bill not to be accomplished before November 1, 1989. We will, by colloquy, move that up to March 1, 1989.

Mr. GLENN. Mr. President, I rise in support of the Kennedy amendment to delay construction funding for the special isotope separation [SIS] project.

Mr. President, the amendment before the Senate would withhold funding for the construction of an SIS facility until March 1, 1989, and would require the Secretary of Energy to submit before then a report to Congress on the status of the SIS technology. My reasons for supporting this amendment are threefold:

First, I am not convinced that there is or will be sufficient demand for plutonium to justify the SIS project.

Second, even if such a demand does exist, it is premature to determine whether the SIS technology is best suited to meeting that demand in a safe and economical manner.

Third, I am concerned that funding of the SIS construction project would divert resources from safety improvements and environmental cleanup at the defense production complex, a task of the utmost priority that will cost many tens of billions of dollars.

DOE has repeatedly acknowledged that the United States now has a substantial surplus of plutonium. Energy Secretary Herrington recently remarked that "we have more plutonium than we need," and Under Secretary Salgado has seconded this assessment, commenting that a 2-year moratorium in plutonium production "would not have a negative impact" on national security. With an INF agreement on the horizon and a START agreement under negotiation, the United States plutonium stockpile is likely to grow. Even in the unlikely event that the United States should require expanded plutonium capacity before a new production reactor becomes operational, contingencies already exist. For example, DOE has stated that the Hanford N reactor is "in a cold standby status, with the capability to restart if a national security need develops."

Mr. President, without an urgent mission for the SIS plant, it would be unwise to begin construction while laser isotope separation technology is still in the research and development stage. Further groundwork is necessary to determine whether SIS technology can be applied safely and efficiently on a production scale. For example, DOE has yet to complete a safety analysis review document for this project. Accordingly, this amendment would not affect funding for R&D and design activities. Instead, it would require the Secretary of Energy to report on the status of technology development before appropriated funds could be spent on construction.

This makes sense in terms of health and safety not only at the proposed SIS plant, but throughout the defense production complex. Rather than requesting a first installment on a multibillion dollar construction project that may prove unnecessary or unworkable, DOE should be getting a start on its staggering environmental cleanup task. Under Secretary Salgado recently estimated that cleanup costs at DOE facilities could run as high as $100 billion. A report giving a more careful estimate, with timetables, is scheduled to be delivered to me by DOE no later than July 1, 1988. This is the legacy of an agency that for decades ignored environmental and safety problems in the name of production. We can no longer allow Americans to be placed increasingly at risk of being poisoned or irradiated by the very industry that is supposed to be protecting them from nuclear devastation.

Mr. President, I urge my colleagues to support the amendment offered by my colleague from Massachusetts, and to defer funding of the SIS plant until both the value and the safety of this proposed facility have been convincingly demonstrated.

Mr. KENNEDY. Mr. President, the amendment that the senior Senator from Ohio and I offer today would defer until March 1, 1989, only those expenditures that would be used for actual site preparations for a new weapons plutonium production facility in Idaho called the special isotope separation plant [SIS] for short.

This amendment would not affect any other aspect of the SIS development program, and the Secretary of Energy has stated that the provisions of this amendment "will not adversely impact the schedule of the SIS project."

I have discussed this amendment with the chairman and ranking minority member of the Senate Armed Services Committee, and with the chairman of the Strategic Subcommittee and the Senators from Idaho. We have also agreed that the due date for the Secretary of Energy's report on the SIS plant should be changed from November 1, 1989 to March 1, 1989.

A similar amendment has already been adopted with broad bipartisan agreement by our colleagues in the House, because it represents a very modest and prudent limitation on the pace of this program, which to date has not received the kind of congressional oversight it deserves. The agreement was worked out with the consent of the Department of Energy, interested parties in Idaho, and the substantial number of legislators who were seeking even stronger action to halt the construction of this potentially high-risk facility.

The basic rationable for this amendment is that this body is not yet in possession of sufficient information to evaluate the true costs and technical risks posed by the proposed SIS plant. SIS technology involves the use of lasers to separate isotopes of hot vaporized plutonium in proximity to highly flammable hydrogen gas and ethanol. At present, the technology is unproven at a production scale.

There is simply a lot we do not know today about how to operate such an SIS facility safely and economically.

SIS technology is not ready for deployment in fiscal year 1989.

Successful construction of a safe SIS production plant depends on the success of the production-scale technology demonstration program at the Livermore National Laboratory. This program is not even scheduled for completion until September 1989. Technical problems could delay that date even further.

There is a disturbing and increasing degree of concurrency between the Livermore Development Program and construction of the SIS production plant at the Idaho National Engineering Laboratory [INEL]. Essential research and development to demonstrate the feasibility of the production process is slipping into the outyears but construction is moving forward. High levels of development funding overlap construction funding at least through 1990 and possibly beyond that date, depending on the results of the Livermore production demonstration program.

This pattern of expenditure is just the opposite of that expected for a successful development program entering the deployment stage.

As most legislators are aware, concurrency invites cost escalation and potentially disastrous technical problems. What the senior Senator from Ohio and I are suggesting, in effect, is that we fly this complicated technology before we buy it.

A closely related and important issue is whether this body is in possession of sufficient information to conclude that SIS technology can make the transition to a production-scale plant capable of safe routine operations. The fundamental, indispensable document on this subject is the safety analysis review [SAR] document.

The Department of Energy has stated that a draft of this document will not be completed until September 1988. This body should not allow construction work on this plant to proceed without first examining the safety analysis review [SAR] document.

Another concern is the disposal of radioactive wastes from the plant. The SIS plant is expected to generate 220 tons of long lived radioactive waste annually, but the anticipated disposal site for this waste is experiencing technical difficulties, and may not be able to accept it.

Some measure of concurrency and increased technical risk might be justified in the SIS plant were being constructed to satisfy some urgent national security requirement for weapons-grade plutonium. But as Energy Department officials readily admit, the SIS plant is not designed to meet a well identified near term need.

There is presently a surplus of weapons-grade plutonium. Moreover, the windfall of plutonium from INF weapon reductions will make available the equivalent of about 2 years production from the SIS plant, postponing the date at which the Nation might conceivably need to draw upon the output from this proposed facility.

Further, in the event of strategic reductions, the United States will have a plutonium surplus for an indefinite period, obviating the need for the billion dollar investment in the proposed SIS plant.

Given the adequacy of existing sources of weapons-grade plutonium through the late 1990's, there is no compelling need to preempt the arms reduction process by rushing to build this additonal plutonium production capacity now.

We have the time, Mr. President, and most important of all, we have the responsibility to carefully evaluate both the need for an additional source of weapons plutonium and the risks of the untried SIS technology, before we embark on construction of an SIS production facility in Idaho or any other location.

I ask that a number of DOE statements on the SIS plant be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOE STATEMENTS ON SIS PLUTONIUM

"[T]he language of the amendments adopted in the House Armed Services Authorization Bill . . . will not adversely impact the schedule of the SID project." (The Kennedy Amendment is identical to the House provision.) John Herrington, Secretary of Energy, Letter to Rep. Richard Stallings (D-ID), May 6, 1988.

"Plutonium. We're awash in plutonium. We have more plutonium than we need."—John Herrington, Secretary of Energy, House Appropriations Subcommittee on Interior and Related Agencies, February 23, 1988.

"Our opponents argue that we do not need SIS to provide nuclear material in the near term. That is a fact and we do not dispute it."—Troy Wade, Assistant Secretary of Energy for Defense Programs, Hearings on the Draft Environmental Impact Statement for the SIS, Idaho Falls, ID, March 25, 1988.

"The SIS is not designed to meet a well-identified need."—Don Ofte, Manager, Department of Energy, Idaho Operations Office, Idaho Falls Post-Register, p. A-1, February 17, 1988.

"It (SIS) is an economic development project."—Carl Gertz, Former SIS Project Manager, SIS Project, Idaho Falls Post-Register, p. A-1, April 10, 1987.

"DOE Undersecretary Joseph F. Salgado concented that a two year moratorium on plutonium production 'would not have a negative impact' on national defense."—The Washington Post p. A-4 February 28, 1988.

"As in the past, most of the nuclear materials needed for new weapons systems are obtained from retired weapons."—Department of Energy Budget Request, volume 1, FY 1989, February 1988.

Mr. EXON. I thank the Senator from Massachusetts. As part of the amendment you are offering to the special isotope separation project, the report required in the Senate Armed Services Committee report will not be due no later than March 1, 1989. This date replaces the November 1, 1989, due date currently in the Armed Services Committee report, 100-326. The earlier receipt of the report will enable the next Congress and the new administration to use its conclusions during deliberations on the defense budget for fiscal year 1990. This change in

report date has been endorsed on all sides, am I correct?

Mr. SYMMS. Yes, the Senator is correct. The due date for the report on the special isotope separation project has been changed to conform with the limitation on the obligation or expenditure of site preparation funds until March 1, 1989.

Mr. McCLURE. The statement of my distinguished colleague from Idaho reflects my understanding of the due date for the report.

Mr. NUNN. I commend all the Senators on both sides of the aisle who have worked so hard on this matter. Both the amendment by the Senator from Massachusetts and the change in report date have been accepted on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCAIN. Mr. President, I think this is a good amendment. It has been cleared on this side. We are pleased to support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Massachusetts [Mr. KENNEDY].

The amendment (No. 2092) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, am I correct that there will be a vote at 9:30 tomorrow morning on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. May I ask what the number of that amendment is?

The PRESIDING OFFICER. The number is 2085.

Mr. HELMS. I thank the Chair.

Mr. President, I will emphasize that the only reason there will be a rollcall vote on this amendment is to nail down the sentiments of the Senate in this regard. This amendment has been agreed to by the distinguished Senator from Georgia, Mr. NUNN, and the distinguished Senator from Virginia, Mr. WARNER.

By the way, I ask unanimous consent that Senator DOLE and Senator THURMOND be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2093

Mr. COHEN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Main [Mr. COHEN] proposes an amendment numbered 2093.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . DDG-51 Destroyer. Up to $730,000,000 of funds appropriated in prior years that remain available for obligation may be transferred from any such appropriation to and merged with Shipbuilding and Conversion, Navy for the procurement of one DDG-51 class destroyer: provided that the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this or any other Act.

Mr. COHEN. Mr. President, this amendment is quite similar to what we passed last year. It has to do with a destroyer. We had a very vigorous debate this morning on the issue. But basically we are not producing enough destroyers. The military, the Navy, requires at least five a year. We are now down to three for authorization. This is simply an amendment that, if funds from prior years can be found, would allow the Appropriations Committee to actually fund an additional one if they could come up with any funding.

So it simply gives them the authority to act in the event that any prior savings can be identified with additional destroyers. My understanding is it has the support of the chairman and the ranking member.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Maine is correct. The authorization bill provided for three destroyers as requested by the Navy. We have been buying, I understand, about five a year. This is what I was talking about the other day when I mentioned that we are going to have to retire some aircraft carriers at some point I think not because of the ship fixation or because of any dogmatic rule about that, but simply to pay for the modern vessels that have to accompany the existing carriers.

My understanding is that the fleet obsolescence on the destroyers is really occurring more rapidly than other ships. Whether we are going to be able to actually afford this one or not, we do not know. We had to make the choice in the committee between an attack submarine and this destroyer. We felt that based on the existing funding that we know about we were not able to afford it. But the way this amendment is drawn, it would have to come if it is going to be financed out of prior years' appropriations that remain for obligation which may be transferred; in other words, if funds are elapsed, and so forth.

We know we need the ship. The Senator from Maine and the Senator from Mississippi I know have conferred on this. I know they are very much in favor of moving this. So I urge its adoption and hope that the funds can be found at some point.

This does not increase the funding under the bill. So I urge adoption of the amendment.

Mr. COHEN. Mr. President, I ask unanimous consent that the name of the senior Senator from Mississippi [Mr. STENNIS] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the amendment has been cleared on this side. These two men are fighters for what they believe in, and they believe in that separate ship Navy. My hat is off to them. I hope it works out.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2093) was agreed to.

Mr. WARNER. Mr. President, seeing no Senator seeking recognition at this time, it is the hope of the manager, the chairman of the committee, and myself that we can finish up here in a short time.

For the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2094

(Purpose: To express the sense of the Congress that the United States should not make any arrangements with Panamanian strongman Noriega which involve dropping of any Federal drug related indictments against Noriega)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report the amendment by the Senator from Kansas.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2094.

At the appropriate place in the bill, add the following new sections:

"SEC. . Findings. The Congress finds:

"(1) Panamanian strongman Manuel Noriega has been accused of serious violations of American law involving trafficking in illegal drugs, providing protection and support to drug traffickers, and laundering drug related money;

"(2) Federal indictments have been handed down against Noriega in the State of Florida on a number of these drug-related charges;

"(3) There are media and other reports that negotiations with Noriega may have occurred, on arrangements under which he would give up political power and leave Panama, in exchange for the dropping of the Federal drug-related indictments against him.

"SEC. . It is the sense of the Congress of the United States that:

"(1) No negotiations should be conducted, nor arrangements made by the United States Government, with Noriega, which would involve the dropping of the drug-related indictments against him.

"(2) Any such negotiations, or arrangements, would send the wrong signal about the priority which the United States attaches to the war on drugs; would not further the prospects of restoring non-corrupt, democratic government to Panama; and would not serve the overall national security interests of the United States."

Mr. DOLE. Mr. President, we have had a lot of debate over the issue of drugs and General Noriega.

I do not think this amendment requires much debate. There are media reports as late as of this evening saying the deal has already been cut. Maybe we are too late.

But it seems to me that everybody wants Noriega to go. There cannot be any settlement in Panama or no real security for the Panama Canal or for American personnel, no halt to the flow of drugs, no democracy for the people of Panama as long as Noriega remains in power.

We all want him to go. We all agree that that ought to be a high priority as far as American policy in Panama is concerned.

But it is not the only priority for American policy. And nothing—nothing—should enjoy a higher priority today than a concerted effort to wipe out the scourge of drugs, which is undermining the fabric of our society and destroying our children.

The evidence appears to be overwhelming—Noriega deals drugs, protects drug traffickers, launders drugs money. Pick your title, Noriega fits them all—drug kingpin, drug overlord, drug godfather.

If we let Noriega off the hook on the drug indictments that have been brought against him—no matter what the motive—we have sent a very regrettable message to the world. We have said that we've got higher priorities than our war on drugs; that our antidrug efforts are expendable for goals that are more important. We have said that under certain circumstances, we'll negotiate leniency for those who are responsible, directly or indirectly, for the addiction and death of our children.

But we can send the right message. We can say: no deals with drug dealers. No deals with Noriega, that let him off the hook on the drug-related crimes he is charged with.

Mr. President, we all want Noriega to go. Everyone in this Chamber, as far as I know, and the President of the United States. Everyone that I know of is concerned about democracy in Panama, the Panama Canal, the people, drugs, whatever it is. There have been a lot of efforts to find some quick solution to get him to go, but they have not worked.

Now there are reports that he has, in effect, been given a golden parachute, 90-days' notice, and a lot of other things that this administration is being criticized for. But I think the important thing is that if we send this signal, it is going to undermine the so-called war on drugs.

It was only on Friday of last week we decided to bring the military in, we are so concerned about it. So in a very limited basis, particularly in surveillance and in some cases in arrest, we are going to extend more power to the military because we are concerned about the war on drugs.

So, I say, let Noriega go, but let us not send him off with a legal golden parachute.

I would hope that reports that are emanating from different news sources as recently as the 7 o'clock news are incorrect. Is that correct?

Mr. D'AMATO. That is correct.

Mr. DOLE. Maybe the deal has been cut. Maybe it is too late. But I would hope that as someone who has been a supporter of the administration—and I think my record is pretty good—they would understand the American people are never going to understand if we dismiss indictments on Noriega.

Maybe there is a good reason for it. Maybe it can be explained in a secret session. But I am not certain if it is ever going to be explained to the satisfaction of someone in my State, or someone in the State of the Presiding Officer, or someone in any other State whose children have become addicted to drugs that might have come from the efforts of General Noriega. We will never be able to explain the profits he has made, the millions and millions of dollars. Let us make no mistake about it. Ten years ago we discussed the Panama Canal on this floor, the Panama Canal Treaty.

I remember saying at least once, at least once mentioning Noriega's name 10 years ago, along with General Torrijos and his brother, and we were concerned about drug traffic. The Senator from North Carolina, the record will show, indicated 10 years ago that Noriega was mixed up with drugs. So there is no big secret and I think the record will reflect that.

So, I am joined in this amendment by Senator D'AMATO and Senator HELMS and Senator THURMOND and maybe others who have not been contacted. Not in an effort to derail a settlement or arrangement between the administration and Noriega to get him out of power. We all want him to go. And maybe the administration has tried everything. Maybe this is the last resort. And some will say, probably accurately, that the indictments are worthless anyway. He is never going to be tried in this country.

But they are a strong symbol to a lot of law-abiding citizens and millions of people who are concerned about drugs, that we are not going to tolerate it.

I am just fearful that by dismissing the indictments that strong symbol evaporates. I am not certain that is what we really want. There has got to be some other way.

Yet I do not quarrel with those who have been dealing with this on a daily basis, trying to find a solution. We have tried economic sanctions, they did not work. We tightened up the sanctions, they still did not work. Noriega seems to have gotten stronger.

But I would hope and I know the Senator from New York has been active in this area on a day-to-day basis for the past several weeks and as a cosponsor of the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from New York, Senator D'AMATO.

Mr. D'AMATO. Mr. President, I want to applaud and thank the Senator from Kansas for taking a courageous stand; for not doing what is fashionable or easy. The easiest thing is for him to say nothing or certainly, nothing publicly. It is not easy for the former majority leader, the leader on the Republican side, to differ with the administration in a public way.

But sometimes you have got to stand up and make a stand for what you know is right, what is important for this country. That is what Senator DOLE has done now.

Mr. President, a case could be made, I believe, that if Noriega were legitimately going to give up power, if the Panama defense forces would come under the control of someone who would not use them to continue a criminal drug enterprise, if true democracy in the fullness of time could be guaranteed, then an argument could be made that this indeed is analogous to plea bargaining.

Mr. President, that is not the case. Noriega is not called upon to give up any power. This is a ruse, a facade, a sham. And it is scandalous.

What we are doing is rewarding him. We are giving him a pardon. And for

that he says, "Well, come August, I will leave the country on a little trip."

There is nothing in this agreement that would preclude him from coming back the day after the pardon is issued, the day after the indictments are dismissed with prejudice.

Mr. President, let me suggest to you what that means. Once the indictment is dismissed, it can never be brought again. That is a pretty good deal. That is, indeed, a "golden parachute." I never heard of that kind of deal in any court in this land, let alone for a fellow who has killed, who has murdered, who has robbed, who subverted his people, the constitution, who presents a very real danger to this Nation and our national security as it relates to the Panama Canal and the Cubanization that is taking place in Panama; a man who has trafficked and money laundered for the cartel and made hundreds of millions of dollars on the misery and death that is taking place in our Nation. And we talk about a war on drugs.

What kind of message are we sending?

I want to tell you, there are some people downtown who had better wake up. They have got Potomac fever. They do not really understand what is taking place throughout the length and breadth of this Nation. They do not even understand what is taking place in the city of Washington, where we see death and mayhem.

I want to ask you, how do you get tough with the drug dealer after you allow this for this killer, an indicted felon? There are U.S. attorneys who dedicated their lives to law enforcement who have said "we will resign rather than go along with this kind of thing."

We have to put our hope in the fact that maybe a judge will do an unprecedented thing. A Federal judge, who will be called upon to agree with the dismissal, may say no.

Those great political pundits who are making these assumptions had better take a look at that because I think this Federal judge has the courage to look at all these things and to say, "what kind of an example is this? Demonstrate to me how it is in the national security interest that you are going to allow this." Because that is what the Federal Government will be in the national interest. How?

When Noriega can handpick his own successor as the head of the army? Where, mythically, we are going to say, "Oh, no, President Delvalle is the fellow who we respect. He is the President."

But when Delvalle has called upon us to ask for extradition, we have not even had the courage and the sense to ask for that extradition.

Well, Mr. President, how will any nation take us seriously? How will they respect us? What will they understand when the United States makes a commitment?

If you were looking for freedom, and to break the chains of tyranny, could you count on the United States? When we encourage President Delvalle to take the action he did, to fire this dictator, this murderer, this drug dealer, and then we abandon him and, more importantly, the millions of Panamanians who looked to us?

How will any nation ever think that the word of the United States is one that you can put your faith and your trust in?

How will this rightfully be interpreted by the political process, by the journalists, by everyone else? I suggest that this administration is doing itself in.

Personally, I would rather see a "poison pill" than the "golden parachute" in this case. That would be more appropriate.

Let me suggest that we are making a mockery of our own laws. It is a sad day in this country if we continue to pursue this.

I do have a hope because, Mr. President, I still have a deep and abiding faith in a wonderful man. He is a wonderful man, a decent man and a good man. He has been courageous and led this Nation over unprecedented economic and worldwide difficulties; and he has been successful. That is Ronald Reagan, our President. He is a man who listens to the American people.

I do not think the American people want us to drop these charges and to give testimony, indeed, to the effectiveness of the drug cartel and Manuel Noriega. I think they would rather see that we do what is right: to say to Manuel Noriega, we are going to pursue these charges, we are going to do that which we must to keep faith both with the Panamanian people who seek freedom and democracy, and with our own national security interests.

I hope the American public lets our President know that they oppose a sellout, and any dropping of these charges; that they call the White House, that they write to the White House, and let our President know, because I think there are some people around him who are just not letting him know what the real facts are.

I have great faith in our President. I think once he knows and once he hears the way the American people feel and once he gets all of the facts, he is not going to permit this to take place: The dropping of the charges against a drug-dealing dictator, giving him, in essence, a free hand to pick his successors; continuing the subservience of the Panamanian people to the drug cartel; and saying to the whole world that the United States does not have the will, the ability, the wherewithal, or the moral stamina to meet its commitments.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New York yields the floor. Is there further debate on the amendment?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BASE CLOSURE IMPLEMENTATION PROVISIONS

Mr. BURDICK. Mr. President, there are two provisions concerning closure and realignment of military installations that are troubling from an environmental viewpoint. Specifically, provisions of the National Environmental Policy Act of 1969 are explicitly waived with respect to base closures and a further provision appears to make environmental restoration at closed military installations a discretionary activity. I seek clarification from the distinguished chairman of the Armed Service Committee on the intent of these provisions.

Mr. NUNN. I am happy to respond to the concerns of the chairman and members of the Environment and Public Works Committee.

Mr. BURDICK. While I generally support the objectives of the base-closing provisions, I have strong reservations about the NEPA waiver. NEPA serves as the national policy and conscience on actions that affect the environment. To simply exempt base closures from NEPA procedures in this case may be unwarranted and sets a bad precedent. NEPA procedures explicitly provide for categorical exemptions of actions which do not individually or cumulatively have a significant effect on the environment.

Further, as drafted, this provision could be interpreted to exempt property conveyance and future uses of this sites from NEPA in addition to base closure actions. If NEPA is waived, in cases were an environmental impact statement on a base-closing decision otherwise would have been required, potentially serious environmental consequences could escape review by the military, relevant Federal and State agencies and the public, only to be uncovered when the property is conveyed to an unsuspecting community.

The second issue of concern is the provision addressing environmental restoration issues. Is the intent of this provision to in any way relieve the Department of Defense of responsibilities under current environmental statutes including Superfund and the Solid Waste Disposal Act?

Mr. NUNN. No. I assure my colleague that this provision in no way interferes with military compliance

with applicable environmental statutes except for NEPA. Section 923 as amended waives four statutes: the Federal Property and Administrative Services Act of 1949 which relates to property disposal; the National Environmental Policy Act of 1969 which relates to the need to file an environmental impact statement; and two reporting requirements; 10 U.S.C. 2662 and 10 U.S.C. 2687; and any provision of law restricting the use of funds for closing or aligning military installations included in appropriations or authorization acts other than this act. Those statutes related to other environmental concerns would remain fully in effect.

The chairman of the Environment and Public Works Committee has raised some legitimate issues with respect to the NEPA waiver. The House has expressed similar reservations on this point as well. I stand willing to work with my colleagues on the Environment and Public Works Committee to address this matter in the conference on the bill.

Mr. MITCHELL. As the Senator knows, military installations may harbor some of the most serious hazardous waste problems in this Nation. Accordingly, the Superfund Amendments and Reauthorization Act of 1986, commonly referred to as SARA, contains extensive Federal facility hazardous waste management requirements. Section 120 spells out Federal Government responsibilities for identifying hazardous waste problems, responding to those problems and documenting compliance. Can the chairman of the Armed Services Committee assure me that the proposed base closure provisions will not affect military compliance with section 120 of SARA and applicable provisions of the Solid Waste Disposal Act?

Mr. NUNN. The intent of the provision in the bill is not to relieve the responsibility of DOD to comply with the requirements of section 120 of Superfund or the Solid Waste Disposal Act.

Mr. MITCHELL. I remain concerned about the implications of this provision for future uses of closed military facilities. It seems to suggest that restoration of the property is purely discretionary. I want to make sure that when and if closure of military facilities occurs it is handled responsibly and that the rights of potential owners of closed sites are protected.

Mr NUNN. I give my assurances to the Senator that this provision will not change or alter existing liability and cleanup responsibilities under current law.

Mr. MITCHELL. Further, I share the concerns of my colleagues about exemption from NEPA. NEPA has proven to be a useful tool in protecting the environment. Application of NEPA is an essential part of our system of environmental protection and should be applied in the case of base closures.

Mr. STAFFORD. I want to associate myself with the concerns of my colleagues regarding responsibilities of DOD under Superfund and RCRA, and I also want to register my strong objection to the blanket waiver from the National Environmental Policy Act that section 923 grants to any activities enumerated in that section.

The activities that would be exempt from NEPA extend not only to the decision to close a base, but to "all actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design." This is a sweeping exemption applicable to activities that, by their own terms, could have very significant effects on the environment.

I understand that, in the past, litigation under NEPA may have been used to delay base closures without any real regard to environmental concerns. Perhaps I am overly optimistic, but I believe that a provision might be fashioned to limit abuses of the NEPA process with regard to base closures without sacrificing NEPA's safeguards for actions that have potentially significant effects on the environment.

Since the Environment and Public Works Committee has jurisdiction over NEPA, I would hope there will be an opportunity for us to work with members of the Armed Services Committee on crafting such a provision before the bill is finally enacted by the Congress.

Mr. BAUCUS. The Subcommittee on Hazardous Wastes and Toxic Substances which I chair has been looking closely at NEPA issues in consideration of a measure to reauthorize appropriations for the Office of Environmental Quality. I would say to the chairman of the Armed Services Committee that I see no need for the NEPA waiver proposed in this bill and see the potential for real problems if it is enacted. I personally do not have the information showing that NEPA has been a major hindrance with respect to base closures.

I have requested additional information on this matter and am willing to consider options to correct problems if they exist. NEPA does not automatically require an environmental impact statement for every Federal action. There are procedures for categorical exclusions and less detailed environmental assessments. I believe that a complete and unqualified waiver is unwarranted and therefore unwise. I welcome the opportunity to work with the conferees on the bill to modify this provision in response to my reservations and those expressed by my colleagues.

Mr. NUNN. I appreciate the comments of my colleagues on the Environment and Public Works Committee. Valid points have been raised concerning the NEPA waiver. I reiterate my commitment to explore this matter further in the conference. I believe that we have clarified the applicability of other environmental statutes. The Department of Defense is not relieved of any responsibility to meet existing statutory or procedural requirements under this bill.

Mr. BURDICK. I thank the chairman of the Armed Services Committee for his clarification and willingness to consider modifications to the NEPA waiver as the conference proceeds. I look forward to working with him on this matter.

MORAL OR RELIGIOUS OBJECTIONS

Mr. HUMPHREY. Mr. President, during consideration of S. 2355, the Department of Defense authorization bill, I had intended to offer an amendment that would have provided full protection to individuals who refused, on religious or moral grounds, to perform or facilitate in any way the performance of, abortions provided in Department of Defense facilities.

I have been informed by the Department that Army regulations provide proection to such conscientious objection. I ask unanimous consent that a copy of these regulations be printed in the RECORD following this statement.

I withheld offering my amendment pending possible Department action to ensure that each of the services' conscience policies provide substantially similar protection.

I urge the Department to work expeditiously to guarantee the protection of religious and moral objections to fundamentally unjust and immoral procedures like abortion. I intend to review carefully the Department's progress in this matter. In the absence of adequate regulation, future legislation may be necessary.

There being no objection, the regulations were ordered to be printed in the RECORD, as follows:

e. Moral or religious objections. AMEDD personnel do not have to perform or take part in surgical procedures authorized by this paragraph that violate their moral or religious principles. Moral or religious objections will be considered as lack of capability to provide this care.

f. Patient transfer. When space and facilities are not available, or the capability does not exist to perform authorized sterilizations or abortions at Army MTFs, arrangements may be made to provide these procedures as follows:

(1) Dependents and retired members may be transferred to another military MTF where these procedures can be provided. They may also obtain these procedures under CHAMPUS. The cost-sharing provisions of CHAMPUS will be explained to the patient and a nonavailability statement provided if required. (See para 2-27.)

(2) Active duty members may be transferred to another military MTF where these procedures can be provided. They may also obtain these procedures from civilian

sources under chapter 15 only when competent medical authority has determined that the procedure is required for stringent, urgent medical reasons. Elective care for active duty members from civilian sources at Army expenses is prohibited by paragraph 15-6.

TECHNICAL ERROR IN REPORT LANGUAGE

Mr. GLENN. Mr. President, I want to note for the record a technical error in the Armed Services Committee report on the National Defense Authorization Act for fiscal year 1989. On page 91 of the report, under the heading of Technical Corrections, the reference to civilian clothing allowances for duty in certain places should indicate that the authority is limited to officer personnel rather than enlisted personnel. This correctly reports bill language which limits the authority to officer personnel and removes any uncertainty regarding the intent of the bill language.

DEPRESSED TRAJECTORY SLBMS

Mr. GORE. Mr. President, on May 11, the House of Representatives passed an amendment to their version of the Defense authorization bill, establishing a 1-year ban on flight testing of depressed trajectory ballistic missiles, if the Soviets do not test any missiles in this mode during the same period. The House amendment was notable for the bipartisan character and the quality of its sponsorship, as well as for the strength and bipartisan character of the ultimate vote.

I had initially considered offering a parallel amendment, but upon reflection, it seems to me that this is not the best way to proceed. We have not yet had time to develop a record in committee on the question of depressed trajectory ballistic missiles, and the subject is both too esoteric and too important to be dealt with summarily, here on the floor.

Therefore, instead of offering an amendment, I will instead—with permission—submit a copy of the House version for the RECORD, and also advise colleagues interested in the details to see the CONGRESSIONAL RECORD for May 11, starting on page H3151. I am also submitting a recent op-ed from the Washington Post, on the subject. I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VERIFIABILITY

In addition to closing loopholes, our definition greatly simplifies and facilitates verification. While the precise technologies are classified, the U.S. Air Force has no doubt it can, with high reliability, monitor the duration and flight path of Soviet ballistic missile tests.

Text of amendment: page 19, after line 11, the following new section:

SEC. 206. MORATORIUM ON FLIGHT TESTING OF DEPRESSED TRAJECTORY BALLISTIC MISSILES.

(a) LIMITATION.—Except as provided under subsection (c), the Secretary of Defense may not during fiscal year 1989 carry out a flight test of a depressed trajectory ballistic missile.

(b) DCI REPORTS ON SOVIET TESTS.—The Direct of Central Intelligence shall submit to Congress reports not later than October 1, 1988, not later than April 1, 1989, and not later than September 30, 1989, stating whether the Soviet Union has carried out, after the date of the passage by the House of Representatives of H.R. 4254 of the 100th Congress, a flight test of a depressed trajectory ballistic missile.

(c) REMOVAL OF LIMITATION.—If either of the first two reports under subsection (b) states the Soviet Union has carried out a flight test as described in that subsection, the limitation under subsection (a) shall cease to apply upon the receipt of the report by Congress.

(d) DEFINITON.—For purposes of subsection (a), a flight test of a depressed trajectory ballistic missile is a flight test of a ballistic missile on a trajectory which would result in a launch-to-impact time-for-distance of

(1) for trajectories between 300 and 500 nautical miles: four minutes or less; or

(2) for trajectories between 500 and 1500 nautical miles: twelve minutes or less; or

(3) for trajectories longer than 1500 nautical miles: less than the number of minutes calculated by

$$.015(.323R+316)$$

where R is range in nautical miles.

DANGER: LOW-FLYING MISSILES

(By Walter Slocombe)

The House, in considering the $300 billion defense authorization bill this week, has been pretty much divided along lines of party and ideology as it has worked its way through various amendments dealing with arms conrol issues. That made it all the more remarkable that one such amendment not only passed by more than a hundred votes but was cosponsored by a liberal freshman (Democrat Dave Nagle of Iowa) and a veteran conservative (Republican Bob Dornan of California).

The idea that drew such surprisingly broad support is, I believe, a good one: to ban flight tests of ballistic missiles that follow "depressed trajectories."

In this connection, "depressed" refers not to a state of mind but to a pattern of flight. Ballistic missiles follow a path that is essentially determined by their direction and speed at the end of a very short initial burst of power. As anyone will understand who can remember freshman calculus—or who has tried to water the back of a garden with a hose that's too short—you get the maximum range from a relatively high initial angle of fire.

For ballistic missiles, that is an angle of about 40 degrees to the Earth. The result is that they fly far above the atmosphere, following a long, lofted course to their target. The time to takes to reach that target is about 13 minutes, even from a submarine close to our shores.

Those 13 minutes, desperately short as they may be, are critical to the effectiveness of our deterrent. Continual flying is too expensive for American nuclear bombers to stay in the air constantly. (The Soviets don't use airborne alert either.) The 13-minute submarine-missile flight time, moreover, makes airborne alert unnecessary. Intelligence sensors—based in satellites that watch the oceans constantly—can detect the intense heat of the submarine missile rockets and warn the bombers to take off.

There is, however, a way to beat this system. Missiles don't *have* to fly the most efficient trajectory, especially when the submarine can be brought close enough to the target to have range to spare in the missiles. By firing at a lower elevation, so that the missile will fly at a "depressed trajectory,' a close-in submarine could hit U.S. bomber bases in five minutes, too short a time for the bombers to get clear.

The potential for using depressed-trajectory missiles in a surprise attack explains why people concerned about strategic stability liked the Nagle-Dornan idea. Moreover, the threat would apply specifically to bombers, which gave B-1 backers such as Dornan a special reason to support a ban.

But conservatives also had another reason to worry about depressed trajectories. The depressed-trajectory missile would fly longer in the atmosphere and come in at a lower angle—which is bad news for the kind of defenses of airfields, communication centers and other key military targets on which the SDI program, sobered by costs and technical problems of an astrodome defense of cities, is now chiefly focused. Since the attacking missile is in the atmosphere longer and may be coming from a wider range of angles, the defense can't use several "layers" of interceptors, and its sensors will have a harder time picking up the attack.

For these reasons, depressed-trajectory attacks would threaten both the bomber element of the deterrent and the prospects for useful defenses to strengthen, not replace, deterrence.

Fortunately, firing on depressed trajectories requires more than just "elevating them missiles a little lower." Depressed trajectories entail greater stresses and added heat from prolonged flight in the atmosphere, as well as special demands on the guidance systems. As a result, they would require major changes in the middle—which would take extensive tests and several years. So far neither side has done any such tests, or even shown any signs of preliminary work toward them.

But so long as the potential advantages of the capability exist—and they do for both sides if, as is too often the case at the early stages of a program, you ignore stability—there is a risk someone will try. The Nagle-Dornan amendment would simply require that the United States stay out of the depressed-trajectory business unless the Soviets start such tests. We could readily detect any Soviet effort, so the ban is not unilateral but rather is contingent on Soviet restraint.

Such a measure puts the depressed-trajectory issue back on the arm control agenda and, meanwhile, protects deterrence, B-1s, SDI and the Navy budget priorities. Such a combination of advantages is rare, and should commend the measure to the Senate, which now takes up the bill.

Mr. GORE. Now, again with permission, I would like to take a few minutes of the Senate's time to explain this matter, and to make the case that the House has broached an extremely important subject which is ripe for action, preferably in negotiations with the Soviets, but also quite possibly, in legislation as well.

To this time, Mr. President, both we and the Soviets launch ballistic missiles on what are called minimum energy trajectories. That is, we launch them along a path which gets them out of the atmosphere and into space as rapidly as possible. The reason we do this is that flight through the atmosphere consumes energy, and so the shorter the time spent powering through the atmosphere, the better, from the point of view of payload and range.

But if, for any reason, we or the Soviets were to place a very high premium on reducing the time it takes for a missile to cover a given distance, we would think about changing the trajectory. What we would do is flatten the arc along which the missile flies, cutting off the time it spends in space, in favor of a much more direct route to its destination. This is what the term depressed trajectory means.

As applied to ICBM's, depressed trajectories are not practical, because the distance between launch points and targets is too great, and too much energy would be used up in flight through the atmosphere. But in the case of submarine launched ballistic missiles, it would be feasible to bring submarines in closer to their targets, and then fire missiles at these targets along depressed trajectories.

The effect would be a dramatic shortening of flight time. In fact, flight time could be reduced to such an extent that the entire detection and launch control system of the United States might be circumvented. If the standard time to target of a Soviet SLBM is between 12 and 13 minutes, the time to target of a depressed trajectory SLBM could be about 5 minutes.

Depressed trajectory SLBM's are not part of our development plans. So far as I know the Soviets have not tested one. But a decision on the part of either country to go down this path would be extremely destabilizing. Depressed trajectory SLBM's would threaten our missiles in silos and their command and control centers. It would threaten our bombers on their bases. It would threaten the ground-based elements of an SDI system. It would threaten rail mobile MX severely. It would require a more costly deployment mode for Midgetman.

What we have therefore is a rare situation in arms control. It is possible for us to close off an avenue of development which would be very menacing, but which neither side has yet begun to traverse.

I am inclined to think our colleagues have a good idea and are on the right track. The issue will now be further explored in conference. I hope that this brief preview will help to inspire Senate interest in this initiative from the other body.

RESPONSE ON SUBJECT OF DEPRESSED TRAJECTORY MISSILES

Mr. NUNN. Mr. President, I thank the Senator from Tennessee. In principle, it seems to me that he may well be right in observing that we have here a subject which has not attracted attention commensurate to its importance. Although the concept of a depressed trajectory ballistic missile is still only a matter of theory, that could change if either side decides to explore this option. Were that to happen, we might well regret it deeply.

We shall have a chance to deal with the depressed trajectory question in conference. Even if we do not agree there on a legislative outcome, I believe that the House has alerted us to an important issue in time to address it while all options are still open. Too often, we only become alert to possibilities in arms control after the opportunity for dealing with them has been seriously prejudiced by developments on either side of the arms competition.

ORDER OF PROCEDURE

Mr. NUNN. Mr. President, I understand the amendment of the Senator from Kansas has been presented. The amendment states it is the sense of the Congress that indictments of Noriega should not be dropped, and I also understand that there are certain news reports that a deal has been reached in which the indictments will be dropped in return for a promise from Noriega to leave office sometime later this year.

I do not know whether that report is accurate or not. It may be that we will find out tomorrow. My own personal view is that you do not indict a foreign leader of a country, even a small country, unless you know before you indict them how you are going to follow through with that indictment. It is a judicial matter but it is a highly volatile political matter.

I think the testimony before our Subcommittee on Investigations was pretty clear that we are dealing with an individual here who certainly has been involved in either passive involvement in drugs or perhaps even active.

So we are talking about something that is rather clear so far as the testimony is concerned that has been received in the committee that I deal with, although he certainly has not had his day in court, and that is what the judicial process is all about.

My own view is that unless you know what you are doing and are going to follow through and are going to pursue the extradition, you never should indict, to begin with.

The question is, now that indictments have come, and apparently we did not know where we are going, we did not have plans for extradition and ways to go about it, and we did not have any alternative plans, so certainly we have dug ourselves into a hole here.

So far as my own position on this amendment is concerned, I will have to wait to hear from the Foreign Relations Committee.

I share the Senator's sentiments. I think once you do it, to withdraw it, to me, is sending a very bad signal.

So, I would be inclined to vote for the amendment, but I do not think it can be accepted tonight, since we have not heard from the Foreign Relations Committee. It is primarily their jurisdiction. I think we probably ought to carry it over until tomorrow morning and hear from them.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Kansas.

Mr. DOLE. I do not have any problem with carrying it over until tomorrow morning. As I have indicated to the majority leader, I would be happy to dispose of it this evening on a voice vote. That may bring about a rollcall in the morning. I guess we will have time in the morning. Maybe it will follow the Helms amendment.

It may be that it is not going to have any impact, anyway. There may have been something already done. It would be a little after the fact. That is the reason I hoped to do it this evening, because the cake may not be totally baked, and by morning it may be frosted. So we wdill see what happens between now and then.

I know it is very difficult, and we can stand here in the Senate and say, "Get rid of Noriega; somebody else has to do it." A lot of things have been tried that have not worked. Maybe this is the best deal that can be arranged, if there is a deal. But I am afraid it is never going to be fully understood by the American people.

This is not just somebody we picked up on the street. This, as the Senator from Georgia indicates, is a foreign leader, and I am certain they did not go into this lightly.

In fact, the U.S. attorneys who worked on it at one time indicated they would resign if the indictments were dismissed. But beyond that, beyond the attorneys, beyond the administration, and beyond the Senate, there probably are millions of Americans out there who are not going to fully understand how we are saying we are going to have a war on drugs and we will bring in the military, as we did on Friday—we will do all these things we say on one hand, but, by the way, we are going to dismiss indictments against General Noriega. Maybe it will be long lasting, but I believe it will have an impact. Maybe this is only the best deal. Maybe everything else has failed. Sanctions have failed. Noreiga seems to be more popular than ever.

I am not certain what the terms are, but as reported on some of the news

programs this evening, he would not leave the country; he would still have some say on what happens so far as his successor is concerned. There are a lot of rumors around; nobody knows the facts.

I certainly had no objection to waiting until the morning. Everyody has made commitments, and the majority leader has announced that there will be no more votes this evening. I will abide by whatever the Senator from Georgia wants to do.

Mr. NUNN. I do not mind staying here and seeing if we can round some people up and get the Foreign Relations Committee people here. As the floor manager, I do not want to get into another committee's jurisdiction, which we do frequently, but it is during the time they are here and we can check with them, and at least they have a chance to voice their opinion. At this stage, I would not feel that I have the general authority to make an agreement, with three or four people here, and vote on this tonight, without having heard from them.

Reluctant as I am to postpone anything on this bill, I am in a position where I have to recommend that course, unless the Senator would like to stay and try to bring some people back in.

Mr. President, I say to both leaders, as they already know, that we have the Helms Panama vote at 9:30, and we could proceed with the Dole amendment after that, or we could proceed before that.

Mr. DOLE. If it is going to be a voice vote, we could do it after that.

Mr. NUNN. We could determine at 9:30 whether it will be a rollcall vote and proceed quickly on it.

That leaves an amendment relating to unauthorized appropriations, and that has been worked out with myself, Senator JOHNSTON, Senator STENNIS, and Senator STEVENS. But we will have to take 5, 10, or 15 minutes to have a dialog, and it requires an amendment to the bill which will be agreed on.

Beyond that, we have the D'Amato amendment, and we do not know at this stage how that is going to be handled.

I would hope that we could vote on final passage in the neighborhood of 10 o'clock or 10:30.

So I know of no other amenmdents this evening.

Mr. DOLE. I ask the majority leader: I guess those are all the amendments, so far as the chairman knows.

Mr. NUNN. I would be reluctant, I say to the Senator from Kansas, to express certainly about it, because we have a lot of other amendments eligible to be called up. We have a lot of indications that they will not be, but we do not know that for sure.

Mr. DOLE. I also understand that the majority leader has indicated that he may be in a position to start on the INF Treaty tomorrow, which is good news. I commned the distinguished majority leader, not just for calling it up but for making certain we ironed out a lot of these problems before we called it up. We have not lost any time. We would have been on the Senate floor debating the nine points that have been clarified in the past several days. We probably saved time.

Mr. NUNN. I agree.

Mr. DOLE. I commend those who have been involved on both sides of the aisle, particularly the majority leader, who has made certain that he protects the rights of the U.S. Senate in its constitutional role, and with the cooperation of the administration. So there has not been any acrimony or any differences.

I do not know what time the majority leader thinks that may happen tomorrow, but I assume it would be after the policy luncheon.

Mr. BYRD. Mr. President, first, let me thank the minority leader and the chairman of the committee for putting the vote over on the amendment by Mr. DOLE until tomorrow, in view of the fact that Mr. HELMS has not given his assent. I think it would not be wise for us to go forward this evening. He is a very responsible and dedicated and conscientious chairman, and I think we owe it to him to clear that matter before we go forward. Any Senator has a right to ask for the yeas and nays. So it may be that the yeas and nays would occur on that amendment tomorrow.

I respond to the distinguished Republican leader: The Senate will come in tomorrow at 9. If the minority leader is agreeable, we could cut our time to 5 minutes each, and then we will go on the DOD authorization bill. Senator NUNN and Senator WARNER will be here to deal with any amendments and to perhaps discuss the amendment by Mr. DOLE and determine whether or not that amendment can be voice voted or whether or not it should have a division or a rollcall vote.

Then the vote on the bill is supposed to occur at 10 o'clock, but any Senator who wishes to call up an amendment as long as it is on the list that Senator will be entitled to call it up and get a vote on it. There will not be any time for debate, but he can still get a vote.

At this time, as I understand what Mr. NUNN has said, we are in no position to know whether or not there will be any other amendments that Senators want to call up and have a vote on.

Then when we reach 10 o'clock, it would depend at that point on what happens in relation to the D'Amato amendment. We were going to attempt to table it today. There could be another tabling motion, of course, occur at that time tomorrow.

There could be a motion to postpone it or there could be other ways the Senate could go.

But hopefully the DOD authorization bill will be disposed of at 10 o'clock a.m. or shortly thereafter.

I would hope then to go to the treaty following the conferences of the two parties, and proceed to a reasonable hour tomorrow afternoon or evening and then be on the treaty daily until the Senate completes action on it. Circumstances from time to time might dictate the action that we will have to take. If there should be a Presidential veto message that comes into the Senate while the Senate is on the treaty, that could alter circumstances here. Also, if a cloture motion should be introduced and were to be favorably voted on by the required supermajority, that very definitely would impinge upon further action on the treaty until the matter clotured could be disposed of. By unanimous consent, of course, the Senate could move on to the treaty or other matters regardless of either one of the two.

So it would seem to me that by beginning our work on the treaty tomorrow we ought to be able to make good headway on it. The study of the treaty will be thorough and will be careful, and that is about the way I see it as of this time.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator. I want to say in that regard, too, that our chairmen of the Foreign Relations and Armed Services and Intelligence Committees and our ranking members of the Intelligence and Armed Services Committees have written to us both in a letter—the chairman of the Committee on Foreign Relations wrote to me a separate letter—indicating that the matters that were in question have been gone into thoroughly and have been resolved to the satisfaction of the signatories of those letters, and on that basis I have full confidence now that the Senate is prepared to move ahead with debate and action on the treaty. I think that the actions by the committees in thoroughly hearing the questions and the issues that have been raised are a service to the Senate and to the country.

I personally am very indebted to Mr. NUNN, Mr. BOREN, Mr. WARNER, Mr. COHEN, and Mr. PELL for the dutiful approach that we have seen demonstrated to attend to these problems that arose in connection with the treaty. I also want to congratulate the administration for moving expeditiously, sending the negotiators back to Moscow and for tying up these loose ends and for apparently having resolved the questions that were at issue. I think it was important that

those matters be resolved. I think it has enhanced the security interests of this country. Not only that but I think it has enhanced the movement and the desire for all of us, or most of us certainly to move ahead with reasonable, workable, effective arms control.

Mr. President, I ask unanimous consent that a letter dated May 16, 1988, addressed to myself and Mr. DOLE from Messrs NUNN, BOREN, WARNER, and COHEN, and a letter dated May 16, 1988, addressed to me from Mr. PELL be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 16, 1988.

Hon. ROBERT C. BYRD,
Majority Leader.
Hon. BOB DOLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD AND SENATOR DOLE: The Senate Select Committee on Intelligence (SSCI) today concluded its work on the INF Treaty. In particular, three issues were addressed at today's session: the on-site inspection protocol; the definition of a "weapon" under the Treaty; and the public reports of Soviet weapons testing banned by the Treaty.

Our findings are as follows: First, we believe that our previous concerns regarding fundamental Soviet obligations under the terms of the INF Treaty's Inspection Protocol have been satisfactorily resolved.

Second, we believe that the United States and the Soviet Union have reached a common definition of the term "weapon delivery vehicle."

Finally, the Committee also investigated recent allegations made in the press regarding the Soviet testing of Ground Launched Cruise Missiles to ranges proscribed by the INF Treaty. We found no evidence of a Soviet violation in this regard.

On the basis of our deliberations, from the standpoint of monitoring and verification, we believe that the Senate may proceed to the INF Treaty at a time you deem appropriate.

Sincerely,

DAVID L. BOREN,
Chairman.
WILLIAM S. COHEN,
Vice Chairman.
SAM NUNN,
Chairman, Armed Services Committee.
JOHN WARNER,
Ranking Member, Armed Services Committee.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 16, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This afternoon, the Foreign Relations Committee met in open session with Secretary Shultz to discuss the agreements reached with the Soviet Union on the nine technical issues and the matter of futuristic weapons. We questioned the Secretary closely on the main aspects of these agreements, and I sensed general agreement on the part of the Committee with Secretary Shultz's judgment that the Administration got everything it needed and wanted from the Soviets. Accordingly, my advice is that the treaty be brought up as quickly as possible on the floor—hopefully tomorrow. I also recommend that every effort be made to conclude Senate action prior to the summit. I agree that the Senate should not get boxed in by an arbitrary deadline, but at the same time if we can do what we need to do to fulfill our responsibility and still make it possible for the President to exchange instruments of ratification at the summit, we should do it in order to ensure that the momentum for arms control is maintained.

With every good wish.

Ever sincerely,

CLAIBORNE PELL,
Chairman.

Mr. BYRD. I yield the floor.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. In addition to the names mentioned, I know on our side, on Foreign Relations there is somewhat of a division there, but both Senator HELMS, from his point of view, has been very diligent, and Senator LUGAR, who comes down on the administration's side, has done an excellent job. So I think we have had a bipartisan effort and I certainly hope that once we get on the treaty, we will be able to determine in 2 or 3 days how we are proceeding. I am certain the majority leader then will maybe be able to advise us whether or not we can continue to make progress this week and next and maybe complete it in time.

Mr. BYRD. We will certainly counsel together.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, just one other word. I hope we can find a way to handle the D'Amato amendment that will not preclude final passage tomorrow morning of the DOD bill. For all sorts of reasons, we need to get that bill to conference. I favor the D'Amato amendment. I favor that approach. For someone involved in drug trafficking who participates in the killing of victims based on the drug trafficking, I favor capital punishment.

I know, and everyone knows here, we are not going to pass the DOD bill if this matter is not resolved. It is going to go on for some time. As the majority leader just observed, if there is a cloture motion filed on the D'Amato amendment, then cloture will come up on Thursday.

If that cloture vote is affirmative, that means for the next 30 hours, to the exclusion of other business under the Senate rules, we will be on that D'Amato amendment. That means we will have no way of getting to the INF Treaty, which I think everyone knows is the top priority at this stage. The other course of action will be not to deal with the D'Amato amendment and postpone the whole Department of Defense bill indefinitely.

I do not think that should be an attractive option to the Senators pushing the D'Amato amendment because they worked very hard, as all of us did, to get some meaningful, significant and sensible roles for the military in fighting this drug situation.

This bill has that information and material in it relating to the mandate and mission of the military in surveillance and in setting up command control and communications.

I think it would be a parodox if we held up the defense bill in order to debate an amendment which would go to conference and the likelihood of being able to get it out of conference all of us know on this bill is very small. If it does come out of conference, it will be after a long and protracted summer and probably into the fall, in which case our defense bill and all the provisions in it will become somewhat irrelevant to the consideration of the debate.

I hope we will all use good common judgment here. As I view it, the Senator from New York has gotten a test of sentiment. I do not know how many votes there were on the motion to table. My recollection is there were at least 25 or 30 people who voted to table the amendment. I was not one of them. I voted not to table the amendment.

Nevertheless, I think there has been a reasonable test here, and I hope the minority leader and the Senator from New York and others would understand the situation we are in tomorrow and hopefully get the D'Amato amendment handled in a way that will not preclude final passage of this bill in the neighborhood of 10 a.m.

I thank the majority leader for his splendid assistance during the consideration of this bill. It is something we have all come to rely on here and maybe even take for granted, but I do not. Having managed a bill, I know what the majority leader and also the Republican leader go through every day in trying to arrange the Senate's schedule, trying to keep the people, if not happy, at least under reasonable control during the floor debate. So I thank the majority leader for all of his assistance, and I also thank the Republican leader for his splendid cooperation in moving this bill to the point we are right now.

Mr. BYRD. Mr. President, I thank the distinguished chairman.

I had the occasion to say upon more than one occasion and in more than one instance the fact he is one of the best chairmen in the Senate, one of the best Senators in managing a bill, and I have seen them all. He is a reasonable man, and he has a head full of

common sense and a steady hand at the controls.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 4448. An act to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, OH, as the "John O. Holly Building of the United States Postal Service."

H.R. 3987. An act to designate the U.S. Post Office Building located at 500 West Chestnut Expressway in Springfield, MO, as the "Gene Taylor Post Office Building."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3239. A communication from the General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation to provide for the recovery by the U.S. Customs Service of the cost of Customs processing of imported articles, and for other purposes; to the Committee on Finance.

EC-3240. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the Board's annual report regarding the Government in Sunshine Act; to the Committee on Governmental Affairs.

EC-3241. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new computer matching program; to the Committee on Governmental Affairs.

EC-3242. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on an altered record system; to the Committee on Governmental Affairs.

EC-3243. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on a proposal by the Immigration and Naturalization Service to alter and establish a separate system of records; to the Committee on Governmental Affairs.

EC-3244. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report regarding the Justice Management Division modifying a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3245. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 7-177, adopted by the Council on April 19, 1988; to the Committee on Governmental Affairs.

EC-3246. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-178, adopted by the Council on October 7, 1988; to the Committee on Governmental Affairs.

EC-3247. A communication from the President of the United States, transmitting, pursuant to law, the District of Columbia government's fiscal year 1989 budget and fiscal year 1988 budget supplemental; to the Committee on Governmental Affairs.

EC-3248. A communication from the Director of the Office of Management and Budget, transmitting, a draft of proposed legislation that would implement the proposal in the fiscal year 1989 budget that the District of Columbia government bill Federal agencies directly for the water and sewer services they actually receive; the the Committee on Governmental Affairs.

EC-3249. A communication from the Acting Director of the Department of Housing and Community Development, government of the District of Columbia, transmitting, pursuant to law, a report entitled "Audit of the Home Purchase Assistance Fund for the Fiscal Year Ended September 30, 1987"; to the Committee on Governmental Affairs.

EC-3250. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Federal agency drug-free workplace programs; to the Committee on Governmental Affairs.

EC-3251. A communication from the Acting Assistant Attorney General (Legislative Affairs), Department of Justice, transmitting, pursuant to law, the Bureau of Justice Statistics Annual Report, Fiscal 1987; to the Committee on the Judiciary.

EC-3252. A communication from the Acting Attorney General, Department of Justice, transmitting, pursuant to law, a report relative to certification to the Honorable Judges of the Court of Appeals for the Ninth Circuit; to the Committee on the Judiciary.

EC-3253. A communication from the Chairman of the Tennessee Valley Authority, transmitting, pursuant to law, the authority's annual Freedom of Information Act report; to the Committee on the Judiciary.

EC-3254. A communication from the Acting Assistant Attorney General (Legislation Affairs), transmitting, a draft of proposed legislation to amend title 11 of the United States Code to provide for the repeal of section 1231 and to make conforming amendments to sections 346(b)(1) and 728(a); to the Committee on the Judiciary.

EC-3255. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States, held in Washington, DC on March 15, 1988; to the Committee on the Judiciary.

EC-3256. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Annual Report of the Attorney General for Fiscal Year 1986; to the Committee on the Judiciary.

EC-3257. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report of the National Endowment for the Arts on arts education, toward civilization; to the Committee on Labor and Human Resources.

EC-3258. A communication from the Chairman of the Advisory Committee on Student Financial Assistance, transmitting, pursuant to law, the first report of the Committee on Student Financial Assistance; to the Committee on Labor and Human Resources.

EC-3259. A communication from the Secretary of Education, transmitting, pursuant to law, the Annual Report of the National Technical Institute for the Deaf, October 1, 1986–September 30, 1987; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs:

The following-named persons to be Members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term of years prescribed by Public Law 99-498 of October 17, 1986 (new positions):

Gail Bird, of New Mexico;
Edith Colvard Crutcher, of Kansas;
Roy M. Huhndorf, of Alaska;
James Courtney Jennings, of Virginia;
William Stewart Johnson, of the District of Columbia;
Duane H. King, of Oklahoma;
Alfred H. Qoyawayma, of Arizona;
Beatrice Rivas Sanchez, of Michigan;
James D. Santini, of Nevada; and
Irving James Toddy, of Arizona.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself and Mr. CRANSTON):

S. 2396. A bill to amend title 38, United States Code, to expand the period considered as the Vietnam era in the case of veterans who served in the Republic of Vietnam; to the Committee on Veterans Affairs.

By Mr. DIXON:

S. 2397. A bill to amend the United States Warehouse Act to specifically allow States to require grain elevators with Federal warehouse licenses to participate in State grain indemnity funds or to require collateral security; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ARMSTRONG:

S. 2398. A bill to amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain infant nursery monitors and intercoms; to the Committee on Finance.

By Mr. ARMSTRONG (for himself and Mr. MCCAIN):

S. 2399. A bill to extend until December 31, 1993, the existing suspension of duty on certain yttrium ores, materials, and compounds; to the Committee on Finance.

By Mr. HECHT:

S. 2400. A bill to amend the National Trails System Act to designate the Pony Express National Historic Trail as a component of the National Trails System; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. MELCHER):

S. 2401. A bill to amend the Internal Revenue Code of 1986, the Employment Retirement Income Security Act of 1974, and the Public Health Service Act with respect to continuation of health care coverage; to the Committee on Finance.

By Mr. BRADLEY:

S. 2402. A bill to amend the Federal Cigarette Labeling and Advertising Act to require manufacturers and importers of cigarettes to place warnings concerning the addictive nature of cigarettes on packages and in advertisements; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 2403. A bill to encourage the development of improved technologies for coal separation using superconductivity; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S.J. Res. 319. Joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself and Mr. CRANSTON):

S. 2396. A bill to amend title 38, United States Code, to expand the period considered as the Vietnam era in the case of veterans who served in the Republic of Vietnam; to the Committee on Veterans' Affairs.

MODIFICATION OF DEFINITION OF "VIETNAM ERA"

● Mr. MITCHELL. Mr. President, today I am pleased to introduce legislation to modify the present starting point for the defintion of "Vietnam era." I am honored to be joined in this effort by the chairman of the Veterans' Affairs Committee, Senator CRANSTON.

Enactment of this legislation will enable those veterans who honorably served this country in the Republic of Vietnam prior to the present starting date to qualify for certain benefits for which they are now eligible.

The definition of Vietnam era is now set by statute, section 101(29), title 38, United States Code, as August 5, 1964, to May 7, 1975.

Service in the Armed Forces during that period entitles veterans, who qualify under specific eligibility requirements, to VA benefits such as pension, readjustment counseling, burial, and on-the-job training, education, or apprenticeship benefits.

The present starting date, August 5, 1964, coincides with President Johnson's message to the Congress of an attack by North Vietnamese gunboats on two United States Navy destroyers in the Gulf of Tonkin the preceeding day. The end date was originally set by President Ford in a Presidential proclamation and later enacted by Congress.

In concept, the Gulf of Tonkin incident is an acceptable date to delineate the beginning of the Vietnam era. Clearly, it is the watershed event in the history of the United States involvement in Vietnam.

But, while conceptually defensible, the present definition services to exclude the United States troops who served in the Republic of Vietnam, sometimes in combat conditions, well before August 5, 1964.

I would note, for example, that the names on the Vietnam Veterans War Memorial includes casualties prior to that date. In fact, the date of the earliest casualty listed on the memorial is October 21, 1957.

Mr. President, establishing a starting date for a period of war, such as Vietnam, where there was no one, single action beginning the involvement of United States service personnel is at best an uncertain science.

Nonetheless, I think that a better option for designating the starting point of the Vietnam era for those veterans who served in the Republic of Vietnam prior to the Gulf of Tonkin incident is available to the Senate. That is February 28, 1961.

This is the date, set forth in Public Law 89-257, after which United States service personnel could accept awards from the Government of the Republic of Vietnam in connection with service in Vietnam.

February 28, 1961, also begins the Vietnam era for the purposes of the Internal Revenue Service—relating to the treatment of income for tax purposes for members of the Armed Forces serving in Vietnam in certain circumstances—and the Immigration and Naturalization Service—relating to expedited naturalization based on wartime service.

Efforts to move back the starting point of the definition of "Vietnam era" for veterans who served in Vietnam prior to August 5, 1964, are not new. In fact, over the years, Senator CRANSTON has introduced three bills to do so.

S. 11, introduced in 1983, and S. 2269, introduced in 1984, would have extended the definition of Vietnam era to July 8, 1959, the date of the first United States military casualty in Vietnam listed on the Vietnam Veterans Memorial at the time of its dedication.

The previous date of the first casualty I mentioned earlier was added to the memorial subsequent to its dedication.

S. 6, introduced in 1985, would have extended the period to February 28, 1961, the date contained in the legislation I am introducing today.

The Senate has twice passed legislation to extend the starting point back February 28, 1961, most recently as part of H.R. 505 on July 30, 1985. Unfortunately, the House has not agreed with the wisdom of making such a change.

Mr. President, I believe there is more than enough supporting evidence to warrant extending the present definition of Vietnam era as proposed in this legislation.

Making the change would bring better uniformity among Federal agencies in terms of defining this period.

Probably most importantly, it would discontinue the present situation in which the Federal Government tells veterans who actually serve in combat situations in Vietnam prior to August 5, 1964, that they are not Vietnam-era veterans.

I hope that other Members of the Senate will join Senator CRANSTON and me in supporting this change.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2396

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF VIETNAM ERA.

Section 101(29) of title 38, United States Code, is amended to read as follows:

"(29) The term 'Vietnam era' means—

"(A) the period beginning February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period; and

"(B) the period beginning August 5, 1964, and ending on May 7, 1975, in all other cases.

SEC. 2. APPLICABILITY.

No person shall be entitled to receive benefits for any period before the date of the enactment of this Act by reason of the amendment made by section 1.●

By Mr. DIXON:

S. 2397. A bill to amend the United States Warehouse Act to specifically allow States to require grain elevators with Federal warehouse licenses to participate on State grain indemnity funds or to require collateral security; to the Committee on Agriculture, Nutrition, and Forestry.

STATE GRAIN FUND PROTECTION ACT

Mr. DIXON. Mr. President, I rise today to introduce legislation which addresses a serious problem facing farmers and our rural communities. This legislation, the State Grain Fund Protection Act of 1988, is identical to H.R. 4329, already introduced in the House by my good friend, TERRY BRUCE.

The intent of this legislation is to ensure that all farmers are protected from severe financial losses resulting

from the failure of a grain warehouse facility.

In a recent U.S. District Court decision, it was ruled that elevators that are federally licenses, are not required to participate in a State's indemnity program. There are federally licensed elevators which have opted to participate in State grain funds. At the same time, however, there are many federally licensed elevators which have not.

Mr. President, farmers are not concerned with the type of license an elevator possesses. Rather, they are concerned, and rightly so, with the protections they are accorded by storing their grain with an elevator. It is my firm belief that every farmer is entitled to have his or her investment protected, to the fullest extent, when it is stored with an elevator, regardless of whether the elevator holds a State or a Federal license.

Mr. President, history has demonstrated that federally licensed warehouses are not immune from the financial difficulties which can plague State licensed facilities. It is an unfortunate fact, but the Federal requirements provide only limited and inadequate protection to our farmers. Those elevators not participating in State programs do not provide the same degree of protection that farmers receive from elevators which do participate in the State programs.

In my State of Illinois, there are 77 elevator facilities licensed by the Federal Government which do not participate in the State insurance program. The current protection system, established under the U.S. Warehouse Act, provides that grain storage companies licensed by the Federal Government must post a storage bond to cover losses. These bonds, however, would not be adequate to cover the losses incurred by all farmers with grain stored in federally licensed elevators.

The farmers of Illinois are adversely affected by this recent court ruling, but they are not alone. Other States which currently have some form of State indemnity funds on the books include Iowa, Ohio, South Carolina, Oklahoma, Kentucky, and New York. Moreover, the States of Idaho, Michigan, South Dakota, and Washington are presently considering the establishment of State indemnity programs to protect their farmers.

The legislation that I am introducing will amend the U.S. Warehouse Act to allow States to require that all elevators participate in State grain funds, whether they are licensed by the Federal Government or the State government. In essence, this will allow States the right to decide how they want to handle elevator liability in the event of a failure.

The State Grain Fund Protection Act of 1988 restores protection to farmers while their grain is being warehoused. It is an approach which represents both common sense and fairness. I urge my colleagues to join me in this important and worthy effort.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Grain Fund Protection Act of 1988".

SEC. 2. WAREHOUSE ACT.

Section 6 of the United States Warehouse Act (7 U.S.C. 247) is amended by striking out "That each" and by inserting in lieu thereof "(a) Each" and by inserting at the end thereof the following new subsection:

"(B) The provisions of this Act shall not prevent or preempt any State from requiring a licensee under this Act to participate in any form of grain indemnity fund or from requiring any bond or other form of collateral security designated to secure the faithful performance of grain obligations.".

By Mr. ARMSTRONG:

S. 2398. A bill to amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain infant nursery monitors and intercoms; to the Committee on Finance.

DUTY SUSPENSION OF CERTAIN NURSERY MONITORS AND INTERCOMS

● Mr. ARMSTRONG. Mr. President, today I am introducing legislation to suspend import tariffs through the end of 1992 on infant nursery monitors and intercoms. These products allow parents to monitor and communicate with a child from another location in the home.

Right now, there are no U.S. companies in the business of manufacturing nursery monitors, and all U.S. companies that sell the monitors import them from abroad. For this reason there is little sense in having an import duty on them because there is no U.S. industry to protect.

But because of the existing tariff, retail prices for this product are higher than necessary. Suspension of the tariff will be a boon to consumers who could obtain the product at lower cost, and will boost competition among retail companies in the United States.

Mr. President, I ask that the legislation be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN INFANT NURSERY MONITORS AND INTERCOMS.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new items:

"912.50	Infant nursery monitors, each unit consisting of a radio transmitter, and electrical adapter, and a radio receiver (provided for in items 685.30, 662.60, and 685.16, part 5, schedule 6).	Free	No change	On or before 12/31/92.
912.51	Infant nursery intercommunication devices, each unit consisting of a pair of transceivers operating on frequencies from 49.82 to 49.90 mHz and an electrical adapter (provided for in items 685.22 and 682.60, part 5, schedule 6).	Free	No change	On or before 12/31/92.

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. ARMSTRONG:

S. 2399. A bill to extend until December 31, 1993, the existing suspension of duty on certain yttrium ores, materials, and compounds; to the Committee on Finance.

DUTY SUSPENSION ON YTTRIUM CONCENTRATE

● Mr. ARMSTRONG. Mr. President, today, along with the Senator from Arizona [Mr. MCCAIN], I am introducing legislation to renew the duty suspension on high-purity yttrium products for a period of 5 years. The current suspension of duty will expire on December 31, 1988 if not renewed.

Currently, there are two remaining U.S. refiners of high-purity yttrium oxide located in Louviers, CO and in Phoenix, AZ. Both the Colorado and Arizona operations are dependent on imported yttrium concentrates for feedstocks since there are no significant domestic sources of yttrium feedstocks. Both refiners face the added disadvantage of competing against foreign refiners who have access to duty-free feedstocks.

While the duty on yttrium is relatively small—roughly between $100,000 and $150,000—it is undermining the viability of the two remaining U.S. refiners. In order that these refiners can remain competitive, it is appropriate that Congress renew the duty suspension on high-purity yttrium.

Mr. President, I ask that the legislation be printed at this point in the RECORD.

S. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That item 907.51 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is

amended by striking out "12/31/88" and inserting "12/31/93".

SEC. 2. The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1988.●

By Mr. HECHT:

S. 2400. A bill to amend the National Trails System Act to designate the Pony Express National Historic Trail as a component of the National Trails System; to the Committee on Energy and Natural Resources.

PONY EXPRESS NATIONAL HISTORIC TRAIL

● Mr. HECHT. Mr. President, today it gives me great pleasure to introduce legislation to officially designate the Pony Express Trail as a National Historic Trail under the National Trails System.

I suspect that it would be hard to find an American who has not heard of the Pony Express, or who does not relish its legendary story. With only 80 men and 500 ponies, and lasting only 79 weeks, the Pony Express provided a vital communication link between the East and the West, and was instrumental in keeping California in the Union. Its backers, Russell, Majors, and Waddell, lost hundreds of thousands of dollars, and were never paid the money the Federal Government promised them. They kept the Pony Express operating at a loss as a matter of patriotism. I hope that the legislation I am introducing today will, in a sense, help to repay our debt to those intrepid men and their quixotic sponsors, and will duly recognize the historical significance of this brief but colorful episode of our country's Western expansion.

Mr. President, I wonder how the Members of this most august body might have responded to this advertisement which appeared in newspapers in March 1860:

Wanted: Young, skinny wiry fellows not over 18. Must be expert riders willing to risk death daily. Orphans preferred.

Only 80 of the hundreds of men who came from all points of the compass met the stiff requirements. They swore on a Bible to behave honestly, not to "cuss" or drink, and not to fight with their fellow riders or abuse their steeds. They rode 75 to 100 miles per day, changing horses every 10 or 15 miles at relay stations. And no time was wasted: in one leap, both the expressman and his "mochila," a leather saddle blanket containing four "cantinas," or boxes, for carrying the mail, were transferred to the new mount. These courageous couriers suffered hardship, deprivation, the threat of ambush by hostile Indians, and a terrific daily physical pounding—all for about $40 to $100 per month, plus room and board.

From its inception, the Pony Express was a model of efficiency, demonstrating what the private sector can accomplish when unbridled by Government redtape. For years, the Government had balked at the possibility of establishing reliable, consistent overland mail service, believing that the "great American desert" was impenetrable. Impatient with the Washington politicos, Russell decided in December 1859 to launch the Pony Express, which would follow the Central Overland route, without Government contract. With little fanfare, it was announced on March 23, 1860, that on April 3 the Pony Express would begin running.

Approximately 1,900 miles long, the Pony Express ran from St. Joseph, MO, the westernmost point reached by the railroad and telegraph, through parts of Kansas, Nebraska, Colorado, Wyoming, Utah, my home State of Nevada, and California, where it ended in Sacramento. Then as now, the need for an adequate and ample water supply played an important role, determining where relay stations would be located, and opening up new parts of the country.

In just 10½ days, the mail sped from terminus to terminus, a tremendous improvement over mail service by steamer which could take up to 6 weeks. In a record of slightly over 7 days, the Pony Express delivered the news of President Lincoln's inauguration. When the service was started, family members back home in the East could keep in touch with a loved one in a remote mining camp for $5 a half ounce, although it cost the company $38 to carry that half ounce. In July 1861, when a Government contract finally came through, the rate dropped to $1 a half ounce.

The Pony Express ended as quickly as it began: on October 26, 1861, 10 days after the completion of the transcontinental telegraph. As an expedient solution to sustaining communication between the far-flung East and West during a time of mounting internal conflict, the Pony Express served the Nation well. It was a romantic and adventurous interlude in our history that exceeds anything a fiction writer could concoct, and an enterprise that showcased American "can-do." I urge my colleagues to support swift passage of this legislation, which will finally acknowledge the national historical importance of the Pony Express Trail.●

By Mr. HARKIN (for himself and Mr. MELCHER):

S. 2401. A bill to amend the Internal Revenue Code of 1986, the Employment Retirement Security Act of 1974, and the Public Health Service Act with respect to the continuation of health care coverage; to the Committee on Finance.

HEALTH CARE COVERAGE

Mr. HARKIN. Mr. President, I rise today to introduce a bill to amend a provision of the Consolidated Omnibus Budget Reconciliation Act [COBRA] commonly referred to as "health care continuation coverage." The need for amendment was recently brought to my attention by a constituent of mine from Des Moines, Mr. Don Hauser, vice president of the Iowa Association of Business & Industry. I ask unanimous consent at this point that Mr. Hauser's letter to me be inserted in the RECORD, as I believe it lays out well an inequity which has been imposed on many businesses across the country as a result of passage of this COBRA provision.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA ASSOCIATION OF BUSINESS & INDUSTRY,
March 14, 1988.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: Iowa companies are having severe problems with the 1986 Comprehensive Omnibus Budget Reconciliation Act provisions dealing with health insurance continuation.

Following is an example of one such problem:

On May 22, 1987, our employee was officially divorced from her spouse.

Her spouse applied for coverage under the COBRA provision due to the fact that he is the divorced spouse of our employee. As such, he is eligible for thirty-six months' coverage under our group insurance.

Since our compny is self-insured, we pay directly for claims turned in by our employee's ex-spouse, who is gainfully employed and could have insurance through his company. However, it is our belief that he can get our coverage at a much cheaper rate than he can get from his own company.

We realize the intent of this "divorced spouse" portion of the federal law was meant to protect an unemployed spouse who becomes divorced. However, the divorced spouse now has rights that exceed those of the employee. Also, in a case like we have here, the divorced spouse is not only employed, but also makes a substantial income (perhaps in the $100,000 range) and is eligible for his own company's group insurance coverage. Surely, the federal law did not anticipate extending coverage in such cases.

Surely, the federal law could be amended to exclude from the continuation provisions persons in situations as described above who have access to insurance from their own employer.

While I'm on the subject of the Comprehensive Omnibus Budget Reform Act, would you explain to me why the Congress continually uses these acts each year to enact substantial legislation—sometimes with what appears to be little or no consequence for the impact on business and industry and employees. The insurance continuation provisions are just one example—another one is the Superfund Amendments and Reauthorization Act of a couple years ago that gave us the comprehensive emergency response and right to know provisions. Both the insurance and response legislation may be necessary—but why is it necessary they be crowded into budget reconciliation acts where it appears little or no consideration is

given to their impact. Surely, if this is worthy legislation, it could stand on its own feet.

I would appreciate knowing if you think something could be done to correct the insurance continuation act to address the above issue and also would appreciate your comments concerning what can be done to control Congress' (what I think is) ill-advised use of the budget reconciliation acts to enact substantive legislation with little public input.

Thank you for your consideration.

Sincerely,

D.G. HAUSER,
Vice President.

Mr. HARKIN. Mr. President, in general, COBRA requires employers to notify terminated employees, separated and divorced spouses and dependents of employees, and spouses and dependents of deceased employees of their eligibility to continue to participate in the group health benefits provided by the employer. The employer may charge the individual who "buys into" the group coverage under these provisions a maximum of 102 percent of the applicable premium for that coverage.

While not seeking to change the purpose of this law, my bill addresses what I believe was an oversight in its drafting: as written, a terminated employee may continue to participate in the former employer's group policy even if he or she becomes employed by a second employer who maintains a health benefits plan. The same is true for separated and divorced spouses, and spouses of deceased employees.

The example set out in Mr. Hauser's letter, drawn from an actual case, may help to clarify. In Mr. Hauser's example, after an employee of one of the Iowa Association of Business & Industry's members, Jenesis Ltd.-Exodus Ltd., divorced her husband, her ex-husband applied, and was accepted, for continued coverage by Jenesis Ltd/Exocus Ltd. under the COBRA provision. Even though he is gainfully employed and eligible for coverge under his own company's plan, he has opted to stay on the insurance roll of Jenesis Ltd.-Exodus Ltd. and is eligible to remain there for 36 months. Adding insult to injury, Jenesis Ltd.-Exodus Ltd. is self-insured, so that all claims filed against it by the ex-husband of its employee come directly from its earnings.

The purpose of the COBRA provision is to allow a greater number of people to participate in affordable group health coverage, and not, I think it is fair to say, to allow workers to pick and choose among insurance plans. My bill simply provides that if a person is eligible to participate under another group health plan, their eligibility for continuation coverage ceases. This is already the situation for persons who become eligible for Medicare—they are not covered by the health care continuation provision.

I hope that my colleagues will join me in cosponsoring this legislation, and that we can correct this oversight quickly so that additional businesses are not affected.

By Mr. BRADLEY:

S. 2402. A bill to amend the Federal Cigarette Labeling and Advertising Act to require manufacturers and importers of cigarettes to place warnings concerning the addictive nature of cigarettes on packages and in advertisements; referred to the Committee on Commerce, Science, and Transportation.

TOBACCO WARNING LABELS

● Mr. BRADLEY. Mr. President, today I am introducing legislation to add an additional warning label to tobacco advertisements and tobacco products sold in the United States. This new warning label reads as follows:

WARNING: Smoking is addictive. Once you start, you may not be able to stop.

The evidence is now overwhelming. Nicotine is a powerful habit-forming drug which may lead to compulsive use and a great diminished capacity to exercise free will over tobacco use. Leading national and international organizations, including the American Psychiatric Association, World Health Organization, National Institute on Drug Abuse, and now the Surgeon General, have declared that chronic tobacco use constitutes addiction.

Mr. President, today, the Surgeon General is releasing his report on tobacco. This report provides conclusive evidence that nicotine is an addictive drug. Many people consider tobacco a habit or a custom. It is more. To be addictive, a drug must cause compulsive use and have altering mood effects as well as rewarding effects that reinforce drug-taking behavior. Nicotine meets these criteria.

I am pleased that the Surgeon General is focusing attention on the addictive powers of nicotine. It is terribly important that young people realize that once they begin to use tobacco, they may not be able to stop. We need to do everything we can to stop tobacco use. If more people realize that nicotine is a harmful addictive drug, the fewer people will use tobacco.

Mr. President, tobacco is the single biggest health hazard facing this country. Virtually all scientific evidence recognizes the dangers of tobacco. More than 300,000 people die from smoking each year. Smoking contributes to 30 percent of deaths due to cancer and to 25 percent of coronary heart disease in this country.

Today, everyone agrees—everyone, that is, except the tobacco manufacturers—that tobacco is a killer. The debate has turned to defining the proper Federal role in discouraging the use of tobacco.

The Federal Government currently has conflicting policies on tobacco. We spend millions on health research in an effort to help the millions afflicted by tobacco-related diseases, and at the same time we provide subsidies to farmers to grow tobacco. We place labels on tobacco products warning people of the direct link between use and illness, and at the same time we allow the excise tax on cigarettes to drop in real terms by 50 percent over the decades. And we spend millions on public health campaigns to warn people of the dangers of tobacco, and at the same time allow manufacturers to write off billions of dollars in advertising expenses that are aimed at encouraging people to smoke or use smokeless tobacco.

The Government should speak with one voice on this problem. I believe that voice should unequivocally say, "smoking will harm you." We need tough Federal laws that send the message loud and clear. The bill I am introducing today will help to send this message.

Before concluding, Mr. President, I would like to quote from a 1972 Philip Morris document that has been brought to my attention. It describes in no uncertain terms the fact that cigarettes are simply packaging for nicotine.

The cigarette should be conceived not as a product but as a package. The product is nicotine. The cigarette is but one of many package layers. There is the carton, which contains the pack, which contains the cigarette, which contains the smoke. The smoke is the final package. The smoker must strip off all these package layers to get to that which he seeks. * * * Think of the cigarette pack as a storage container for a day's support of nicotine. * * * Think of the cigarette as a dispenser for a dose unit of nicotine. * * * Think of a puff of smoke as the vehicle of nicotine. * * * Smoke is beyond question the most optimized vehicle of nicotine and the cigarette the most optimized dispenser of smoke.

Mr. President, tobacco is the vehicle for delivering nicotine to the public. We know that nicotine kills. Now we know that nicotine is addictive. It is government's job to see that fewer and fewer people spend their time trying to receive their "dose unit" of nicotine.●

By Mr. MOYNIHAN:

S. 2403. A bill to encourage the development of improved technologies for coal separation using superconductivity; referred to the Committee on Environment and Public Works.

THE MAGNETIC COAL SEPARATION IMPROVEMENT ACT

● Mr. MOYNIHAN. Mr. President, today I am introducing the Magnetic Coal Separation Act of 1988. This is a bill to promote a new and promising technology in the field of coal combustion, and it is an acid rain control bill. I hope it will lead to reducing the

levels of acid rain that are plaguing our country's lakes, rivers and forests, and those of our neighbor to the north.

The recent visit to the United States by Canadian Prime Minister Mulroney to Washington focused our attention once again on the obstacles to acid rain legislation. We discussed possible solutions to the acid rain problem affecting both of our countries. The solution may be in new, emerging technologies such as superconductivity.

NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

In 1979, I introduced the first, and to date the only Federal legislation on acid rain. This bill, the Acid Precipitation Act of 1980, set in motion a comprehensive, 10-year research program that has now firmly established these emissions from coal-fired power plants are a major contributor to acid rain. Last fall the Environment and Public Works Committee—of which I am ranking majority member—approved legislation to reduce acid rain as part of comprehensive amendments to the Clean Air Act. Control of acid rain needs to be a top priority. We simply must do it. But we should not lay all our hopes on one piece of legislation. Acid rain is a complex and only partially understood phenomenon, and is open to many solutions. Among these, any approach that does not unduly threaten both the coal and electric generation industries should be most seriously considered.

Technology may come to our rescue. To reduce acid rain, we must reduce emission of sulfur into the atmosphere—sulfur dioxide and nitrous oxide are all too quickly converted to acid rain in our atmosphere. Most coal contains significant amounts of sulfur (mostly in the form of magnetically reactive iron pyrite). The idea behind coal separation is to remove this sulfur before the coal enters the furnace. In addition, magnetic separation technology offers potential for gas emissions control using molecular gas separation techniques. In this application, gases are differentiated by molecular spins of individual molecules. Powerful superconducting magnets would be used to remove gases such as nitrous oxides from the emissions plume within the stack. By reducing sulfur and eliminating these emissions, we begin to reduce acid rain.

SUPERCONDUCTING COAL SEPARATION

And so the question arises: why should we pursue development of new, precombustion clean coal technology when conventional coal cleaning techniques are available? The reasons are several.

First and foremost, our most commonly used pollution control technology for sulfur emissions, the flue gas scrubber, is extremely expensive. On a cost-per-ton-removed basis, scrubbers run between $350 to $500—at least twice the price of switching to low-sulfur fuels. If we clean coal before we burn it, then we are effectively switching to low sulfur fuels. If we rely on the scrubber as our sole means of controlling sulfur emissions, then coal—our most abundant domestic energy resource—could simply be discontinued in favor of cheaper alternatives, such as natural gas. Scrubbers are that expensive. It is clearly something to be avoided.

This brings us to coal separation. Conventional coal separation utilizes a wet process that requires supplemental energy for drying before this coal can be fed to a boiler. The excess moisture that results from this process results in energy penalties during combustion.

But magnetic separation of impurities avoids these drawbacks—coal is ground into a fine, dry powder that is run through very powerful magnets made affordable by the new, high temperature superconductors just now being discovered. Impurities—sulfur—are pulled to one side, and the final product is a cleaner, dry coal powder, ready for immediate combustion. A dry process saves valuable time during preparation, separation, and handling. Greater purity also means lower plant cleaning and maintenance costs. Further, it allows for quick repetitive cleaning cycles through the magnetic field to ensure cleaning efficiency. Time required for a single cleaning cycle for a prototype unit has been a matter of minutes; as a consequence, multiple cleaning cycles can be run in much less time than necessary for a one-step conventional separation process. Estimates for operational costs are 25 percent of those associated with conventional coal cleaning operations.

NEW SUPERCONDUCTING MATERIALS

This idea has been around for some time, but has not been aggressively pursued. This is due in large part to the large amounts of electricity required for generating such powerful magnetic fields. The new ceramic superconductors have changed all this. Magnets made with the new, high-temperature superconductors will be stronger than conventional magnets of comparable size, and require only a fraction of the power. Current estimates of energy savings are around 75 percent.

Conventional superconductors require liquid helium to adequately cool the superconducting material. This extremely low temperature requirement has restricted these materials to a few specialized fields. The new high temperature materials can be adequately cooled using liquid nitrogen, at a fraction of the cost of liquid helium. In short, this new process holds the promise of being more efficient that conventional coal separation, and cheaper than flue gas scrubbers. Quite a bargain.

The bill I am proposing today will allow us to bring this idea to fruition. So far the only existing prototype, at Argonne National Laboratory in Illinois, uses preexisting low temperature superconducting magnets. I would expect that some of the funds this bill authorizes would go toward creating a prototype using the new, high-temperature superconducting magnets. Such a prototype will be needed to produce data on both operating costs and cleaning efficiencies—information vitally necessary for the commercialization of any new technology of this sort.

Only sustained research and development will allow us to take advantage of this technology and ensure its timely availability. The bill I am introducing today would authorize $50 million for research, development and commercialization of magnetic coal separation and magnetic emissions controls, with the ultimate aim of seeing it used at coal fired power plants across the country, particularly in areas of predominantly high-sulfur coal.

It is my firm belief that the Congress will enact acid rain legislation. It may happen this year, or even next, but it will almost surely happen, and we must strive to see that the legislation we do enact deals with all facets of the problem. I hope my colleagues will see the wisdom of using this promising technology to eliminate acid rain at its source, and will support this bill.●

By Mr. LEAHY:

S.J. Res. 319. Joint resolution to designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week"; to the Committee on the Judiciary.

NATIONAL DISABLED AMERICANS WEEK

Mr. LEAHY. Mr. President, I rise today to introduce a joint resolution marking November 6 through November 12, 1988 as "National Disabled Americans Week." Over 36 million Americans suffer from disabilities and over 25 percent of these disabled Americans have more than one disability. And this number is expected to rise as medical technology continues to improve upon its ability to prolong human life.

All Americans share the risk of becoming disabled. Some are born with disabilities. Others may develop disabilities due to accident, illness or environmental factors. Others age into disabilities. These disabilities are varied. They range from visual impairment, hearing difficulties, activity limitations to learning, emotional and behavioral problems.

Disabled Americans are more likely to live in poverty. And they are less educated. Simply put, disabled Ameri-

cans are discriminated against and do not have the same advantages as do nondisabled Americans.

Establishing National Disabled Americans Week will create an opportunity for all Americans to learn what it means to have a disability. More importantly though, this week will help us look at how society deals with the disabled and what efforts we must take to integrate the growing number of disabled Americans into the mainstream of society. Furthermore, this week will make more Americans aware of how independent and self-sufficient disabled Americans can be.

Disabled Americans have the same basic needs as do nondisabled Americans. They need affordable housing, adequate health care, essential education, and access to transportation. It is imperative that all Americans work together to make sure disabled Americans are not discriminated against in these areas.

Mr. President, Mr. Garrison, chief executive officer of the National Easter Seals Society has written to me expressing his strong support of this resolution. I ask unanimous consent that his letter be inserted in the RECORD following my remarks.

The greatest tragedy in the world is not allowing an individual to reach his or her full potential. For this reason, I introduce this joint resolution to ensure that the commitment being made to the public awareness of the needs and abilities of disabled Americans is continued.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL EASTER SEAL SOCIETY,
Chicago, IL, February 1, 1988.

Senator PATRICK LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the more than one million persons who are clients of Easter Seal Society programs nationwide, I heartily encourage you in your efforts to establish a National Disabled Americans Week. A ceremonial week such as the one proposed could provide persons with disabilities the opportunity to speak for themselves and break down the attitudinal barriers that most often stand in their way.

As you well know, and as San Antonio (Texas) Mayor Henry Cisneros said to those assembled at our National Convention in Boston last November, persons with disabilities are a people resource that remains largely untapped. Easter Seals has had the privilege of working with this group—both children and adults—for almost seventy years. Many of our corporate sponsors, including our recent Business and Industry Award winner Friendly Ice Cream Corp., have had wonderful experiences and set responsible examples in hiring persons with disabilities. What they have learned in setting an example is that persons with disabilities are dedicated and loyal employees, when given a chance.

Establishing a National Disabled Persons Week would create an opportunity for all Americans to learn about what it means to have a disability and, more than this, to become aware of how independent and self-sufficient so many people with disabilities have become.

At Easter Seals, we commend your efforts to establish this national week and offer our continuing enthusiasm and support for your work in this area.

Sincerely,

JOHN R. GARRISON,
Chief Executive Officer.

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. THURMOND, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 675

At the request of Mr. MITCHELL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal year 1988, 1989, 1990, 1991, and 1992.

S. 1511

At the request of Mr. MOYNIHAN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1511, a bill to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal.

S. 1522

At the request of Mr. RIEGLE, the names of the Senator from Virginia [Mr. WARNER], the Senator from Indiana [Mr. LUGAR], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1595

At the request of Mr. DOMENICI, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1595, a bill to amend title V, United States Code, to provide for the establishment of a voluntary leave transfer program for Federal employees, and for other purposes.

S. 2098

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2098, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 2159

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2159, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm vehicles.

S. 2199

At the request of Mr. CHAFEE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2199, a bill to amend the Land and Water Conservation Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and recreational heritage, and for other purposes.

S. 2205

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2206

At the request of Mr. D'AMATO, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2285

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2285, a bill to authorize the Secretary of Agriculture to exchange certain national forest lands in the Targhee National Forest.

SENATE JOINT RESOLUTION 230

At the request of Mr. HELMS, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Georgia [Mr. NUNN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Dakota [Mr. BURDICK], the Senator from Alabama [Mr. HEFLIN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Carolina [Mr. SANFORD], the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. SIMON], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Colorado [Mr. WIRTH], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nebraska [Mr. KARNES], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the

Senator from California [Mr. WILSON], the Senator from Vermont [Mr. STAFFORD], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. THURMOND], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 230, a joint resolution to designate the third week of June 1988 as "National Dairy Goat Awareness Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. SYMMS, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Massachusetts [Mr. KERRY], the Senator from Colorado [Mr. WIRTH], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 270

At the request of Mr. RIEGLE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. MCCLURE], the Senator from Connecticut [Mr. WEICKER], the Senator from Connecticut [Mr. DODD], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Washington [Mr. EVANS] were added as cosponsors of Senate Joint Resolution 270, a joint resolution designating June 26 through July 2, 1988, as "National Safety Belt Use Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution to designate November 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 288

At the request of Mr. BOREN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Senate Joint Resolution 288, a joint resolution to designate the week of June 5, 1988, through June 11, 1988, as "National Intelligence Community Week."

SENATE JOINT RESOLUTION 294

At the request of Mr. TRIBLE, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Montana [Mr. BAUCUS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 294, a joint resolution designating August 9, 1988, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 295

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 295, a joint resolution to provide for the designation of September 15, 1988, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'AMATO, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month."

SENATE JOINT RESOLUTION 307

At the request of Mr. RIEGLE, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 307, a joint resolution to designate the decade beginning January 1, 1988, as the "Decade of the Brain."

SENATE JOINT RESOLUTION 315

At the request of Mr. DECONCINI, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. MCCLURE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Vermont [Mr. STAFFORD], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mr. DOLE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 315, a joint resolution designating 1989 as "Year of the Young Reader."

AMENDMENT NO. 2032

At the request of Mr. DIXON, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of amendment No. 2032 proposed to S. 2355, an original bill to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2070

At the request of Mr. D'AMATO, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Arizona [Mr. MCCAIN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alabama [Mr. SHELBY], and the Senator from Utah [Mr. HATCH] were added as cosponsors of amendment No. 2070 proposed to S. 2355, an original bill to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2071

At the request of Mr. D'AMATO, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Arizona [Mr. MCCAIN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alabama [Mr. SHELBY], and the Senator from Utah [Mr. HATCH] were added as cosponsors of amendment No. 2071 proposed to S. 2355, an original bill to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT

STEVENS AMENDMENTS NOS. 2079 AND 2080

Mr. STEVENS proposed two amendments to the bill (S. 2355) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 2079

On page 93, strike out line 15 and all that follows through page 94, line 23, and insert in lieu thereof the following:

SEC. 802. GUIDANCE ON USE OF FIXED PRICE DEVELOPMENT CONTRACTS.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe guidelines that provide that a fixed-price contract should be awarded in the case of a development program conducted by the Department of Defense only when—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The Secretary of a military department and the head of a Defense Agency may not award a firm fixed-price contract in excess of $10,000,000 for the development of a major system or a subsystem of a major system unless the Under Secretary of Defense for Acquisition determines and states in writing that the award of such contract is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the guidelines prescribed under such paragraph.

(B) The Under Secretary of Defense for Acquisition may delegate his authority under subparagraph (A) only to a person who holds a position in the Office of the

Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section:

(1) The term "Defense Agency" has the same meaning as is provided in section 101(44) of title 10, United States Code.

(2) The term "major system" has the same meaning as is provided in section 2302(5) of title 10, United States Code.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

AMENDMENT NO. 2080

On page 114, strike out lines 15 through 17 and insert in lieu thereof the following: agreements that—

(i) are negotiated between the Secretary of Defense and the contractor or subcontractor before or during the fiscal year covered by such agreements; and

(ii) are entered into after the Secretary determines that cost advantages for the United States will result from allowing such foreign selling costs under such agreements.

Each of the budget requests submitted to Congress by the Secretary after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1989 shall reflect such cost advantages.".

WARNER AMENDMENT NO. 2081

Mr. WARNER proposed an amendment to the bill S. 2355, supra; as follows:

On page 131, between lines 13 and 14, insert the following:

SEC. 823. APPLICABILITY OF CONTRACT GOAL FOR MINORITIES TO PRINTING-RELATED SERVICES.

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended—

(1) by redesignating subsection (h) subsection (1); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Notwithstanding sections 501 and 502 of title 44, United States Code, and section 309 of the Legislative Branch Appropriations Act, 1988 (as contained in section 101(i) of Public Law 100-202 (101 Stat. 1329-310)), printing, binding, and related services needed by the Department of Defense may be procured from entities referred to in subsection (a) in order to meet the objectives set out in such subsection. The procurement of printing, binding, and related services from such entities shall be conducted for the Department of Defense by the Public Printer as directed by the Secretary of Defense. Printing, binding, and related services needed by the Department of Defense and not procured from such entities shall be procured from the Government Printing Office.".

JOHNSTON (AND BREAUX) AMENDMENT NO. 2082

Mr. JOHNSTON (for himself and Mr. BREAUX) proposed an amendment to the bill S. 2355, supra; as follows:

On page 8 at lines 10 through 12 delete subparagraph (ii) and insert in lieu thereof the following:

"(ii) is necessary to meet the cost, schedule, or preformance requirements of the Navy determined by the Secretary.

"Such certification may not be issued until after the bids for such competition are received."

HELMS AMENDMENTS NOS. 2083 THROUGH 2086

Mr. HELMS proposed four amendments to the bill S. 2355, supra; as follows:

AMENDMENT NO. 2083

Add at the end of the pending amendment the following new section:

SENSE OF THE CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

"SEC. . (a) FINDINGS.—(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol, (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty."

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore that the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused to meet on the date required, to wit October 3, 1987, and that the United States, seven months later, still refuses to propose a date for this meeting.

SENSE OF CONGRESS.

(b) Taking account of the findings of this Section, it is the sense of the Congress that the President should without any further delay propose an early date to conduct the overdue five-year review of the ABM Treaty and immediately thereafter inform the Congress of the results of that review.

AMENDMENT NO. 2084

Add at the end of the bill the following new section:

"SEC. . (a) CONGRESS:—(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest term possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (via direct representations to the Government of Ethiopia, certain rebel groups, and via sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in the north, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Union of Soviet Socialist Republics in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high Soviet priority and that the approach of the Union of Soviet Socialist Republics is consistent with that of the West.

(b) SANCTIONS.—

(1) SANCTIONS URGED UNDER CERTAIN CONDITIONS.—The President's is strongly urged, and is hereby authorized (notwithstanding any other provision of law), to impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to subparagraphs (2) and (3) of this subsection) if, at any time after the date of enactment of this section, the Government of Ethiopia engages in any of the following outrages:

(i) Forced resettlement.

(ii) Forced confinement in any resettlement camp.

(iii) Diversion of international relief to the military.

(iv) Denial of international relief to any persons at risk because of famine.

(v) Seizure of international relief assets provided by the United States.

(vi) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) SANCTIONS TO BE INCLUDED.—Sanctions imposed pursuant to subparagraph (1) shall include sanctions which substantially affect the major exports of Ethiopia.

(3) EXPORT SANCTIONS.—If a sanction imposed pursuant to subparagraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(4) REPORTS TO CONGRESS.—Not later than the end of the 15-day period beginning on the date of the enactment of this section and at the end of each 60-day period thereafter, the President shall submit to the Congress a report on whether, during that period, the Government of Ethiopia engaged in any conduct described in subparagraph (1 of this subsection). Each such report shall describe the response of the United States to such conduct.

(5) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanctions imposed under this subsection.

AMENDMENT NO. 2085

Viz: Add at the end of the bill the following new section:

"SEC. . (a) None of the funds authorized or appropriated by this or any other Act shall be obligated or expended for assistance to the Panamanian Defense Force unless and until the President has certified to Congress that no armed forces of the Union of Soviet Socialist Republics, Cuba, or Nicaragua are present in the Republic of Panama and that General Manuel Noriega

has been removed as Commander of the Panamanian Defense Force, barred from all offices and authority, and prohibited from designating or appointing his successor.

(b) Provided further that nothing in this Section shall prohibit the President from obligation or expending any funds necessary for the defense of the Panama Canal or for the maintenance of United States armed forces or interests in Panama.

(c) Ten days after the enactment of this Section, the President shall provide a detailed report to Congress, in both classified and unclassified form, regarding 1) whether Soviet, Cuban, or Nicaraguan military, paramilitary, or intelligence personnel are present in Panama and 2) whether the Panamanian Defense Force has coordinated with, cooperated with, supported, or receive support from, such personnel.".

AMENDMENT NO. 2086

Add at the end of the bill the following new section:

"SEC. . Notwithstanding any other provision of law or of this Act, no funds authorized or appropiated by this or any other Act shall be obligated or expended, directly or indirectly, for implementation of any provision of the document of April 13, 1988, purporting to be an agreement made between the United States of America and the Union of Soviet Socialist Republics concerning the 1988 Treaty made by Afghanistan and Pakistan in connection with the Soviet occupation of Afghanistan unless and until the President has submitted such document as a treaty to the Senate for advice and consent to ratification.".

DOMENICI (AND BINGAMAN) AMENDMENT NO. 2087

Mr. DOMENICI (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 2355, supra; as follows:

At the appropriate place in the bill, insert the following new section:

COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

SEC. . Not later than June 30, 1989, the President shall submit a report to the Congress which includes a review of the relationship of the arms control objectives of the United States with the responsiveness of research and development of monitoring systems for weapons verification. Such review shall include but not be limited to the participation of the Departments of Defense, State and Energy, the Director of Central Intelligence, and the Arms Control and Disarmament Agency.

At a minimum, the report shall include the findings of the President, and such recommendations for improvement as the President shall deem appropriate, with respect to the following:

(a) the status of coordination in the formulation of U.S. arms control treaty verification policy;

(b) the status of efforts to ensure that arms control treaty verification policy is formulated in a manner which takes into account available technologly for monitoring systems; and

(c) the status of efforts to insure that research and development on monitoring systems technology evolves in step with arms control treaty verification policy.

BUMPERS (AND OTHERS) AMENDMENT NO. 2088

Mr. BUMPERS (for himself, Mr. LEAHY, Mr. COHEN, Mr. CHAFEE, and Mr. HEINZ proposed an amendment to the bill S. 2355, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON DEPLOYMENT OF CERTAIN STRATEGIC NUCLEAR WEAPONS.

(a) SHORT TITLE.—This section may be cited as the "Strategic Nuclear Weapons Interim Restraint Act."

(b) LIMITATION ON OBLIGATION OF FUNDS.—Notwithstanding any other provision of law and subject to subsection (c), none of the funds appropriated pursuant to this or any other Act to or for the use of any department or agency of the Federal Government may be obligated or expended before September 30, 1989 to overhaul, maintain, operate or deploy more than—

(1) 820 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles;

(2) 1,200 launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles; or

(3) an aggregate total of 1,320 launchers of ballistic missiles described in clause (2) and heavy bombers equipped for air-launched cruise missiles;

(c) EXCEPTIONS.—(1) The limitation on the obligation and expenditure of funds in subsection (b) shall not apply if at any time more than 29 days after the date of enactment of this act the President determines and certifies to Congress that the Soviet Union deploys strategic forces in numbers greater than those specified in subsection (a). If the President makes such a determination, he shall submit to Congress a report that includes the information on which such determination was based. Such report shall be submitted in both classified and unclassified form.

(2) If at any time more than 29 days after the date of the enactment of this Act the President notifies Congress in writing that, based on the best agreed intelligence Community assessments, he is unable to make a certification under paragraph (1) or to make a certification that the Soviet Union deploys strategic forces in numbers at or below those specified in subsection (a), the limitation on the obligation and expenditure of funds in subsection (a) shall not apply for a period of 29 days after the date on which the notification is received by Congress.

(d) NOTIFICATION OF PLANS FOR COMPLIANCE.—Not more than 29 days after the date on which the President determines that funds are prohibited from being obligated or expended for the overhaul, maintenance, operation or deployment of strategic offensive nuclear weapons in excess of the numbers specified in subsection (b), the President shall notify Congress of his plans for actions to comply with the limitations specified in subsection (b).

(e) NEW AGREEMENT.—If a new agreement between the United States and the Soviet Union relating to the deployment of strategic offensive weapons becomes effective before September 30, 1989, the restriction on the obligation and expenditure of funds in subsection (b) shall cease to apply.

(f) DEFINITIONS.—For purposes of this section.

(1) The terms "launchers of intercontinental ballistic missiles equipped with multiple, independently targetable reentry vehicles" and "submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles" mean launchers of the types developed and tested for launching intercontinental ballistic missiles and submarine launched ballistic missiles equipped with multiple, independently targetable reentry vehicles.

(2) The term "air launched cruise missiles" means unmanned, self propelled, guided, weapon delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft.

(g) SALT II COMPLIANCE AMENDMENT.—Notwithstanding any other provision of law, the United States shall not be obligated to abide by the provisions of the Salt II Treaty, in whole or in part, unless and until the following have occurred:

(1) The Senate has amended the Treaty so as to give it legal force if it were ratified;

(2) The Senate has given its advice and consent to the Treaty;

(3) The Union of Soviet Socialist Republics has agreed to all amendments, reservations and understandings upon which the Senate's advice and consent is conditioned.

(4) Each party has ratified the Treaty in accordance with its own constitutional processes.

CHILES AMENDMENT NO. 2089

Mr. CHILES proposed an amendment to bill S. 2355, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES.—(a) Within 30 days after the enactment of this legislation, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be made up of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services and the General Services Administration.

(b) On a biannual basis, the Commission shall—

(1) prepare a report listing active and nonactive military facilities that the Department of Defense has identified as fit for closure, underutilized in whole or in part, or on the surplus property list;

(2) identify those facilities, or parts thereof, that could be utilized or renovated as minimum security facilities to hold non-violent prisoners;

(3) identify those facilities or parts thereof, that could be utilized or renovated to house non-violent persons for drug treatment purposes; and

(4) present this list to the President and to the Congress.

(c) The first report required by subsection (b) shall be submitted to the President and to the Congress no later than September 1, 1988. Further reports shall be issued not later than September 1 every 2 years thereafter through fiscal year 1996.

MURKOWSKI AMENDMENT NO. 2090

Mr. MURKOWSKI proposed an amendment to the bill S. 2355, supra; as follows:

At an appropriate place in the bill add the following new section:

SEC. . KUWAITI BURDEN SHARING.

(a) The Congress finds that—

(1) United States naval forces are protecting the shipment of Kuwaiti produced crude oil through the Persian Gulf;

(2) eleven Kuwaiti tankers have been reflagged by the United States for the purpose of ensuring that such tankers are entitled to United States naval protection;

(3) Kuwait derives significant economic benefit from U.S. naval protection and from the reflagging of its tankers;

(4) Kuwait has invested a portion of the proceeds from the sale of its crude oil in United States domestic crude oil reserves and refining capabilities;

(b) It is the sense of the Congress that—

(1) Kuwait should make a greater effort to bear its proportionate share of the costs of protecting commercial shipping in the Persian Gulf;

(2) Kuwait should, to the maximum extent possible, employ United States merchant marine personnel to man its tankers reflagged with United States flags of convenience;

(3) Kuwait should, to the maximum extent possible, charter idle United States crude oil tankers to transport a portion of its domestically produced crude oil.

GARN AMENDMENT NO. 2091

Mr. GARN. proposed an amendment to the bill, S. 2355, supra; as follows:

On page 25, between lines 2 and 3, insert the following new section:

SEC. . PRODUCT EVALUATION ACTIVITY.

Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for fiscal year 1989, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 816 of this Act.

KENNEDY (AND GLENN) AMENDMENT NO. 2092

Mr. EXON (for Mr. KENNEDY, for himself and Mr. GLENN) proposed an amendment to the bill, S. 2355, supra; as follows:

On page 249, between lines 20 and 21, insert the following new subsection:

(e) SPECIAL ISOTOPE SEPARATION PROJECT.—(1) Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

COHEN (AND STENNIS) AMENDMENT NO. 2093

Mr. COHEN (for himself and Mr. STENNIS) proposed an amendment to the bill, S. 2355, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . DDG-51 Destroyer. Up to $730,000,000 of funds appropriated in prior years that remain available for obligation may be transferred from any such appropriation to and merged with Shipbuilding and Conversion, Navy for the procurement of one DDG-51 class destroyer: provided that the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this or any other Act.

DOLE (AND OTHERS) AMENDMENT NO. 2094

Mr. DOLE (for himself, Mr. THURMOND, Mr. HELMS, Mr. D'AMATO, and Mr. MCCLURE) proposed an amendment to the bill, S. 2355, supra; as follows:

At the appropriate place in the bill, add the following new sections:

"SEC. . Findings. The Congress finds:

"(1) Panamanian strongman Manuel Noriega has been accused of serious violations of American law involving trafficking in illegal drugs, providing protection and support to drug traffickers, and laundering drug related money;

"(2) Federal indictments have been handed down against Noriega in the State of Florida on a number of these drug-related charges;

"(3) There are media and other reports that negotiations with Noriega may have occurred, on arrangements under which he would give up political power and leave Panama, in exchange for the dropping of the Federal drug-related indictments against him.

"SEC. . It is the sense of the Congress of the United States that:

"(1) No negotiations should be conducted, nor arrangements made by the United States Government, with Noriega, which would involve the dropping of the drug-related indictments against him.

"(2) Any such negotiations, or arrangements, would send the wrong signal about the priority which the United States attaches to the war on drugs; would not further the prospects of restoring non-corrupt, democratic government to Panama; and would not serve the overall national security interests of the United States."

BOB SIKES VISITOR CENTER

METZENBAUM (AND GLENN) AMENDMENT NO. 2095

Mr. BYRD (for Mr. METZENBAUM and Mr. GLENN) proposed an amendment to the bill (S. 1736) to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center"; as follows:

Section 129 of Title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"VOIDING OF CERTAIN AGREEMENT.—Upon the request of the Ohio Turnpike Commission of the Ohio Turnpike (I-80, I-90 and I-76 in the State of Ohio) and the State of Ohio, the Secretary shall:

"(1) enter into an agreement providing that toll revenues from operation of the tolled Ohio Turnpike facility will be used only on such facility for construction and reconstruction costs and for the costs necessary for the proper operation and debt service of such facility (including resurfacing, reconstruction, rehabilitation, and restoration); and

"(2) void Agreement No. 1264, dated July 14, 1964, entered into with said Commisison and the State of Ohio with respect to such facility as authorized under Section 129(d) of Title 23, United States Code."

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 10 p.m., on Tuesday, June 7, in SR-301, Russell Senate Office Building to hold a hearing on S. 1786. This bill, introduced by Senator DIXON, would establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of the President of the United States.

Members of Congress and other individuals and organizations interested in testifying or submitting a statement for the hearing record are requested to contact Jack Sousa, chief counsel of the Rules Committee, on 224-5648.

SUBCOMMITTEE ON AGRICULTURE CREDIT

Mr. LEAHY, Mr. President, I wish to announce that the Subcommittee on Agriculture, Nutrition, and Forestry has scheduled a series of oversight hearings on the implementation of the Agricultural Credit Act of 1987.

The first hearing, scheduled for May 23, 1988, at 1:30 p.m. in SR-332, will focus on the implementation of certain provisions of the act in the Jackson Farm Credit District. Senator JOHN BREAUX will preside.

The second hearing, scheduled for June 16, 1988, at 10 a.m. in SR-332 will be a general oversight hearing with respect to the Farm Credit System. Senator DAVID BOREN will preside.

The last hearing, an oversight hearing of the Farmer's Home Administration will take place on Thursday, July 14, 1988, at 10 a.m. in SR-332. Senator DAVID BOREN will preside.

For further information, please contact Kellye Eversole at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 16, 1988, at 2 p.m. to consider recommendations to the administration for the implementation of the United States-Canada Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE AND CIVIL SERVICE

Mr. BREAUX. Mr. President, I ask unanimous consent that the subcommittee on Federal Services, Post

Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, May 16, 1988, to hold an oversight hearing on the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, May 16, 1988, at 5:15 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SURGEON GENERAL DIRECTS "FRIENDLY FIRE" AT AMERICAN FARMERS

● Mr. SANFORD. Mr. President, hysteria is running rampant. In the middle of a supposed war on drugs, the Surgeon General has mistaken the enemy. In comparing tobacco—a legitimate and legal substance—to insidious narcotics such as heroin and cocaine, he has directed "friendly fire" at American farmers and businessmen.

To say that tobacco is an addictive as heroin and cocaine is to trivialize the effect these mind-altering substances have on those who violate laws to obtain, sell and use them. Are cigarette smokers—and tobacco farmers—no better than those who traffic in illegal substances?

I'm told that cigarette smoking is on the decline among our young people. I'm also told that drug use is on the increase among those very same young people. Which of these practices deserve our strongest efforts?

I'm told that some 40 million Americans are former smokers, and that 95 percent of them quite smoking without help. If that is so, perhaps the Surgeon General can tell me how he considers tobacco addictive. Perhaps he can also tell me why the millions of Americans who are overweight are not addicted to food.

Perhaps I shouldn't be surprised. This is the administration that declares war on drugs, and then counsels people to "just say no."

This is the administration that, when tons of drugs are flowing into the country in airplanes and ships, confiscates a luxury yacht with a pinch of marijuana aboard.

This is the administration that wants to give an indicted Central American drug lord more advance notice that it is willing to give American factory workers.

I think the Surgeon General's priorities are skewed. He should get off the backs of legitimate, law-abiding American farmers, and concentrate on those who are breaking our laws to addict and corrupt our citizens. There are straightforward reasons for warning about smoking. There is no need to dream up hysterical inventions to make the point.●

MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE STATE OF ISRAEL

● Mr. WILSON. Mr. President, I rise today to herald a historic event that occurred on April 21, 1988, during the celebration of Israel's 40th anniversary—the signing of a memorandum of agreement regarding political, security and economic cooperation between the United States and Israel.

This historic agreement recognizes the development of close and increasingly productive bilateral relations that have grown to new proportions in the eighties. It institutionalizes a history of growing and depending strategic cooperation with Israel, which reflects a shared interest in building peace and stability in the region. Israel is a fellow democratic nation and major non-NATO ally with which the United States has mutual security and economic interests. Strategic cooperation is not a one-way street. The relationship with Israel has greatly enhanced America's strategic position in the Middle East and the Mediterranean and has served as a deterrent to conflict in the region.

In all these important areas—military, economic, and strategic—the two nations are erecting a comprehensive framework for building on the achievement of the past and growing into the future while shielding them from the political turmoil of the region.

Central to this relationship are a series of bilateral groups established in recent years that have been of great value to both countries. The Joint Political Military Group [JPMG] has assisted in the initiation of joint military planning, prepositioning of United States defense material in Israel and combined exercises with Israeli forces. The Joint Security Assistance Planning Group [JSAP] coordinates the effective implementation of U.S. security assistance and reviews cooperative defense industrial issues. The Joint Economic Development Group [JEDG] concerns itself with developing policies which promote a strong and self-sufficient economy in Israel. With the signing of this MOA, these groups will now continue to exist and to strengthen their efforts toward the building of strategic ties between our two nations.

Mr. President, Israel is our close friend and ally, and we both have benefited greatly from our close ties. I know that my colleagues join me in applauding this MOA and the mutual benefits of the United States-Israel relationship that it reflects.

Mr. President, I ask that the full text of this critical agreement be inserted in the RECORD at this point.

The memorandum of agreement follows:

MEMORANDUM OF AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE STATE OF ISRAEL REGARDING JOINT POLITICAL, SECURITY, AND ECONOMIC COOPERATION

PREAMBLE

The parties to this Memorandum of Agreement reaffirm the close relationship between the United States of America and Israel, based upon common goals, interests, and values; welcome the achievements made in strategic, economic, industrial, and technological cooperation; recognize the mutual benefits of the United States-Israel Free Trade Agreement; take note of United States economic and security assistance to Israel; and note that Israel is currently designated, for the purposes of Section 1105 of the 1987 National Defense Authorization Act, as a major non-NATO ally of the United States. The parties wish to enhance their relationship through the establishment of a comprehensive framework for continued consultation and cooperation and have reached the following agreements in order to achieve this aim.

ARTICLE I

The United States and Israel recognize the value of their unique dialogue and agree to continue frequent consultations and periodic meetings between the President and the Prime Minister, between the Secretary of State and the Minister of Foreign Affairs, between the Secretary of Defense and the Minister of Defense, and between other Cabinet-level officials. In these meetings, international and bilateral issues of immediate and significant concern to both countries will be discussed as appropriate.

ARTICLE II

A. The Director General of the Ministry of Foreign Affairs and the Under Secretary of State for Political Affairs will meet regularly, for a Joint Political Consultation (JPC) to discuss a wide range of international issues of mutual interest with a view toward increasing their mutual understanding and appreciation of these issues.

B. The United States Agency for International Development and Israel's Ministry of Foreign Affairs, Division of International Cooperation (Mashav) meet periodically to coordinate and facilitate, as appropriate, programs of cooperative assistance to developing countries.

ARTICLE III

The United States and Israel reaffirm the importance of the following U.S.-Israeli Joint Groups:

A. The Joint Political Military Group (JPMG) is the forum in which the two states discuss and implement, pursuant to existing arrangements, joint cooperative efforts such a combined planning, joint exercises, and logistics. The JPMG also discusses current political-military issues of mutual strategic concern.

1. The JPMG is a binational, interagency group co-chaired by the Director General of the Israeli Ministry of Defense and the U.S. Assistant Secretary of State for Politico-Military Affairs.

2. The JPMG normally meets biannually, alternating between Israel and the United States.

B. The Joint Security Assistance Planning Group (JSAP) is the forum in which the two states review Israel's requests for security assistance in light of current threat assessments and U.S. budgetary capabilities and agree upon proposed levels of security assistance. The JSAP also discusses issues related to security assistance, such as industrial and technological cooperation, as well as issues related to Israel's inclusion among those countries currently designated as major non-NATO allies of the United States for the purpose of cooperative research and development under Section 1105 of the 1987 National Defense Authorization Act.

1. The JSAP is a binational, interagency group co-chaired by the Director General of the Ministry of Defense and the Under Secretary of State for Security Assistance, Science, and Technology.

2. The JSAP currently meets annually, in Washington, D.C.

C. The Joint Economic Development Group (JEDG) is the forum which discusses developments in Israel's economy. With a view to stimulating economic growth and self-reliance, the JEDG exchanges views on Israeli economic policy planning, stabilization efforts, and structural reform. The JEDG also evaluates Israel's requests for U.S. economic assistance.

1. The JEDG is a binational, interagency group co-chaired by the Director General of the Ministry of Finance and the Under Secretary of State for Economic Affairs. The group includes private U.S. and Israeli economists invited by their respective countries.

2. The JEDG currently meets biannually, alternating between the United States and Israel.

ARTICLE IV

This Memorandum of Agreement does not derogate from any existing agreements or undertakings between the two states nor in any way prejudices the rights and obligations of either state under the Charter of the United Nations or under international law. In accordance with the above, the parties reaffirm their aspirations to live in peace with all countries. This agreement shall come into effect upon signature, shall be valid for an initial period of five years, and shall thereafter be renewed for additional periods of five years unless either party notifies the other prior to the expiration of a five year period that it wishes to terminate the agreement.●

CHARLES H. MARCIANTE RE-ELECTED PRESIDENT OF THE NEW JERSEY STATE AFL-CIO

● Mr. LAUTENBERG. Mr. President, I rise to congratulate Charles H. Marciante on his election to a sixth term as president of the New Jersey State AFL-CIO and also to honor his many contributions to the trade union movement.

Mr. Maricante, a native New Jerseyan, has always been an active participant in the State's labor activities. Before he was elected president in 1970, Mr. Marciante served as secretary-treasurer of the New Jersey State AFL-CIO and secretary-treasurer of the old State federation of labor. Through his service in these offices, Mr. Marciante has become a spokesman for organized labor in New Jersey. He has also gained recognition for his work on the councils of the national labor movement.

Mr. Marciante has served New Jersey labor interests through a variety of positions and organizations. His work has focused on discovering new ways to develop and expand the State's economic capabilities. By serving as a member of the State's economic development authority, the economic development council, and the Governor's economic recovery commission, Mr. Marciante has been able to accomplish much in this area. He helped found the Alliance for Action which has been a moving force behind infrastructure development in New Jersey.

Mr. Marciante has directed many of his efforts toward educating and training workers. He played a critical part in the reform of New Jersey's worker compensation and unemployment insurance systems. From 1983–84, he served as a member of the unemployment insurance system task force. Mr. Marciante has also served on the department of education's vocational education State board, and recently he participated on the New Jersey Business Retention and Job Retraining Commission.

Mr. Marciante's work has not been limited to civic duties. Through his role as vice chairman of the President's and Governor's Committee to Employ the Handicapped, and as labor coordinator for annual March of Dimes drives in New Jersey, he also has served as a labor representative to charitable organizations.

Charles Marciante's accomplishments are many. Through his dedication to labor concerns and economic development, he has achieved a great deal for New Jersey. I congratulate him on his achievements, and wish him continued success in his sixth term as president of the New Jersey State AFL-CIO.●

INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, the decision to abort an unborn child is irrevocable once the operation is underway, and there is no guarantee that side effects won't follow. Therefore, it is imperative that women be told all the facts before consenting to this potentially dangerous surgical procedure. Unfortunately, less that full disclosure happens all too often. As the hundreds of letters received by my office reveal, someone, purposely or carelessly neglected to tell these women risks and alternatives to this procedure. Many have paid a high price for physician negligence. Perhaps, with full disclosure, they would have changed their mind about the abortion, perhaps not. The point is that they deserved the opportunity to choose. Someone took that away from them. By supporting S. 272 and S. 273, we can make sure that Federal dollars aren't used in this way. I ask that three letters from Michigan be inserted into the CONGRESSIONAL RECORD.

The letters follow:

FEBRUARY 13, 1987.

DEAR SENATOR HUMPHREY: In April 1973 at age 15, I became pregnant. The father was my 17 year old boyfriend, We turned to a close friend who found out about an OBGYN who was doing abortions in his office. I told them I has 18, we paid cash in advance and sat down to wait in a room full of pregnant women.

After an hour, I was shown into the treatment room where a suction abortion was performed. No one questioned why I was discarding a life, told me the risks or even hinted that a life was being taken.

To me it was the only solution—my only regret was that I had become pregnant in the first place, my only fear was that my parents would find out. Afterwards, I felt only relief and occasionally wondered what might have happened had I gone through with the pregnancy.

It was not until the birth of my first child in 1983 that I realized the awful thing I had done and became informed about the prolife movement.

Praise God. He does forgive and heal. I know that God loves me and I thank Him for two precious, beautiful sons—more than I could every hope or ask for!

Thank you for your concern and work.

Prayerfully,

ANONYMOUS.

Empire, MI, June 25, 1987.

To the Honorable Gordon J. Humphrey:

I had two abortions before I became a Christian. I first began to think about the feasibility of having an abortion when I visited a Planned Parenthood clinic in Pontiac during my freshman year at college in order to receive the pill at a minimal cost. It was there that I received information about the nearest abortion clinic and was told how "safe" it was. Yes, physically it was safe but they never mentioned the emotional trauma.

The first abortion was not as tramatic as the second one. The first abortion was performed one month before my marriage. I didn't want to get married and have my in-laws think he had to marry me. It was hard enough "fitting in" with his family without that hanging over my head.

The second one was performed one year after marriage. I was using an IUD and got pregnant. My gynecologist told me that one in five pregnancies under these circumstances results in a retarded child. He didn't think abortion was the answer. He didn't want to give me the abortion clinic address, but because of the law, he did.

I struggled with what to do. I dreaded the thought of having an abnormal child, so I had an abortion. I credit most of the night after the abortion and suffered from deep depression. I felt guilty and confused. A year later, I had a normal child using natural childbirth. Life seemed fine on the surface, but I struggled with depression and low self-esteem. I can't blame abortion for all my emotional problems but it did contribute.

I had not realized how much those abortions bothered me until I became a born-again Christian. It felt good to have the

burden of guilt released but I still regret having had those abortions—it hurts knowing I killed 2 of my children.

In Christ,

JOANNE MORTON.

MARCH 9, 1987.

DEAR SENATOR HUMPHREY: About two years after my husband and I were married, I continued to spot after a monthly period. When I called a doctor to make an appointment, he made an odd comment. He hesitated after I explained the situation, and then said, "I guess I'm blaming you for not coming in sooner." My symptoms had been going on for about a week after my period when I called. Not being well-informed about pregnancy symptoms, I didn't ask any questions or what he meant by that remark. When I went in for an exam, he simply recommended a D&C. I had the D&C, never suspecting that I was probably pregnant at the time.

Just this month, I read the testimony of a woman who had had the exact symptoms I did, and whose doctor made the same recommendation. Fortunately, she had been through two pregnancies and knew what was happening in her body. Even though the doctor thought she should have a D&C supposedly because those symptoms indicated she probably wouldn't carry the baby to term, she refused, and today she has a 12 year old son.

Thank you for working for passage of an informed consent bill. I pray that you have good success. I have two daughters now, for whom I am very thankful, but when I think that through my ignorance a child may have been murdered, I grieve.

Sincerely,

SALLY BERK.●

WENONAH FIRE CO.: 100 YEARS OF SERVICE 1888 TO 1988

● Mr. LAUNTENBERG. Mr. President, I rise to congratulate the Wenonah Fire Co. for its 100 years of service to the community of Wenonah, NJ. The fire company has enjoyed a long heritage of serving others and I would like to take an opportunity to highlight some of its rich history.

The first mention of the fire company was a report to the Fire and Lighting Committee to the Borough Council in April 1883 that 22 galvanized fire buckets were in good condition. A motion was passed for the fire company to purchase a ladder for $9.25 and later that year, a school cellar became the first firehouse where this equipment was stored.

On April 6, 1888, the Wenonah Fire Co. was officially formed. During the early years, alarms were sounded by striking a suspended cut automotive wheel rim with a sledge hammer. This was eventually replaced by a rope pulled bell on a high pole, and eventually by a modern alarm system.

In 1906, the fire company was incorporated with 10 charter members. The fire company building was completed in 1909. In the next few years, the company purchased a motorized truck and a new alarm system siren.

Beginning in the early 1920's until 1942, a carnival was held in August of each year as the prime source of operating funds. In 1937, the fire company began inviting neighboring fire companies to participate in the Fourth of July parade. In December 1937, a ladies auxiliary was formed which planned to build an addition to the firehouse, a social hall and kitchen.

In May 1943, a first aid station application was made to the American Red Cross and approval was received in August 1943. Thus establishing the WFC as one of the first official rescue squads in New Jersey.

In 1958, advancements in technology opened up communication with other fire companies, increasing the efficiency of all companies at an alarm. In the 1970's WFC became the first fire company in the county to add a second frequency to their system. In 1963, an addition to the firehouse was completed to house more modern equipment.

In 1976, the first female member joined the Wenonah Fire Co. Today, men and women are welcome, active and important members who make the company very effective. The community of Wenonah has been active in supporting its fire company. Its contributions have helped to purchase the best fire equipment available for today's needs.

From bucket brigade to hose cart, from horsedrawn fire truck to diesel powered pumpers, the tireless efforts of the company's dedicated individuals have saved life and property for 100 years. Wenonah Fire Co. will be celebrating its centennial year with many celebrations throughout 1988; with a company banquet, a Fourth of July parade for the entire community, and in October, an open house for the townspeople and neighboring fire companies.

Mr. President, I congratulate the Wenonah Fire Co. for its 100 years service, and extend my best wishes for continued success in the future.●

ISRAEL'S 40TH ANNIVERSARY OF INDEPENDENCE

● Mr. SIMON. Mr. President, I rise today to congratulate the State of Israel and her people on the occasion of Israel's 40th anniversary of independence. Born in fire on May 14, 1948, and in the aftermath of the most horrifying criminal act perpetrated by one people against another, Israel stands today as a shining example of democracy and social achievement.

Israel holds a special place in the hearts of all Americans—as a nation which bravely fought for its very existence in four major wars against overwhelming odds, as a people who made the desert bloom, and as a living reminder of the power of ideas and dreams to reshape the world we live in. I am proud that we have had the opportunity to contribute to these achievements.

In celebrating Israel's 40th anniversary, we are also celebrating 40 years of Israel-American friendship. Today we have the opportunity to reaffirm our deep friendship and rededication ourselves to broadening our ties with the people of Israel.

In the past we have been reminded once again that Israel was forged in the midst of strife and conflict. Think of what Israel's present accomplishments might have been, and what its future accomplishments might be, were it not burdened by the human and material costs of a seemingly endless cycle of war and preparation for war. We have glimpsed the beginning of just such a promising future in the Camp David peace fashioned between Israel and Egypt.

Let us pray and hope that we can honor Israel's 40 years by helping bring peace to Israel and her neighbors in all parts of the Arab world.

Shalom, Israel.●

ABE STOLAR—PART VI

● Mr. SIMON. Mr. President, since last Monday I have been examining the reasons why Abe Stolar and his family remain in the Soviet Union. Abe is a native Chicagoan who has been trying to leave the Soviet Union since 1974. The Soviets say Abe is free to leave but they refuse to allow his daughter-in-law, Julia, to leave with the rest of the family.

I mentioned previously that Julia's mother refuses to sign a waiver of financial claims. This lack of a waiver has been the basis for the Soviet authorities' refusal to let Julia go and the Stolars refuse to leave without Julia.

Let's examine the need for this affidavit. Article 77 of the Soviet family and marriage laws states that "Adult children must support disabled parents who need help, and see to their needs." It is my understanding that the purpose of this law is to ensure that any person in need has the right to his or her child's financial support.

Now, this seems perfectly reasonable that family members have a responsibility to one another. Families should stick together. Unfortunately, it seems the Soviets apply this law arbitrarily: In this instance against an individual the Soviet government wishes to keep at home despite her wishes to emigrate.

The law, therefore, is used unfairly and to discriminate. For many reasons, which I will go into in subsequent days, this law should not be the reason for which Julia can't leave the Soviet Union.

There is no legitimate reason the Stolars should not be able to leave the Soviet Union as a family.●

NATIONAL HOSPICE MONTH

● Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 289, a joint resolution designating November 1988 as "National Hospice Month." This resolution will recognize our Nation's hospices and hospice volunteers for the quality care they provide to terminally ill individuals and their families.

Hospice was initiated in 1974 as an alternative to traditional methods of terminal care. Based on similar successful programs in England, the first hospice programs in America focused on providing palliative and supportive services in home and in-patient settings. Today's hospices typically employ a "team approach," involving families, religious and community groups, and medical professionals in meeting the human and medical needs of terminally ill persons.

Since 1974, more than 1,700 hospice programs have been developed, with more programs formed every week. This, and the fact that one in four hospice programs are currently eligible for medicare reimbursement, demonstrates the increasing public acceptance of the hospice concept.

The need for hospice programs is certain to grow in the future. Increased access to hospice care will be especially important in view of the aging of our population and the need to fully address the health care needs of persons with AIDS. More and more, as the demand for hospice grows, volunteers will be called upon to administer this care. I hope that this resolution will assist hospice programs in recruiting the additional volunteers needed to carry on with this important work.

Mr. President, it is important to emphasize that hospice is a life-affirming endeavor. It exists to help the terminally ill to live as fully and comfortably as possible, while providing vital support to families. I support the goals of hospice, and I am pleased to cosponsor Senate Joint Resolution 289. I encourage my colleagues to join me in supporting this legislation, and I urge its immediate passage.●

FIREARMS DETECTION ACT OF 1988

● Mr. D'AMATO. Mr. President, I rise in support of S. 2180, the Firearms Detection Act of 1988.

First of all, let me state that I have always been, and remain, a vigorous supporter of our constitutionally guaranteed right to keep and bear arms. I do not take lightly efforts to restrict, in any manner, rights vital to the protection of liberty. There are times, however, when the need to preserve law, order and the public security compels us to strike the best balance we can. This is such a time.

S. 2180, Mr. President, is a responsible bill. It addresses a phenomenon that is not uncommon in this day and age: rapid advancements in technology. We are faced today with the spectre of firearms not detectable by existing means. While such firearms are not presently on the market, the technology to build them exists. I need not remind my colleagues that we live in a world where terrorism is commonplace, and the hijacking of aircraft the tactic of choice among terrorists. These weapons, if available, would present an unacceptable security risk. It is important to consider that their availability likely would force airports to resort to even more intrusive measures to assure the safety of passengers.

Mr. President, too often we are confined in what we do here to limiting, repairing, or compensating for damage already done. It is not often this body has an opportunity to exercise foresight and address a problem before it becomes acute. Let us not forgo this opportunity. I urge adoption of this measure.●

PENNY JONES

● Mr. McCONNELL. Mr. President, I rise today to enter into the RECORD an article about a dear friend of mine, Ms. Penny Jones. Penny is now the head of the Center for Historic Houses of the National Trust for Historic Preservation. She first came to Washington as my legislative assistant for health and education issues after serving as a special assistant to me when I was the county judge-executive of Kentucky's Jefferson County.

As the article details, Penny has been interested in the preservation of historic houses her entire life. She fought to save her first home from demolition while she was writing a thesis on Louisville architect Henry Whitestone. Therefore, it is fitting that she returned to her native Louisville last week to speak on the theme: "Preservation is the People's Choice."

I insert this article, Mr. President, so that my colleagues can learn of Penny's special devotion to this worthy campaign.

The article follows:

[From the Courier-Journal, May 8, 1988]

PENNY JONES DEVOTES HER ENERGIES TO KEEPING "THIS OLD HOUSE AROUND"

(By Martha Elson)

After spending her earliest years in Louisville, Elizabeth Fitzpatrick "Penny" Jones recalled growing up in a 19th-century house in Cincinnati with high ceilings, fireplaces and elegant staircases.

Ever since, her life has been largely devoted to preserving such attractions for future generations to enjoy.

"It just grows on you, a love for older houses and buildings, said Jones, 45, who was appointed that fall to head the Center for Historic Houses of the National Trust for Historic Preservation in Washington, D.C. "I've always appreciated the post."

Jones said ner new work involves informing and educating owners of old houses throughout the country about preservation topics.

As part of National Preservation Week this week, the former Louisville preservation administrator will speak at a noon luncheon Tuesday at the Seelbach Hotel.

Her talk is the first of a series of local Preservation Week events sponsored by Preservation Alliance of Louisville and Jefferson County. She will give a "Washington update" of this year's national theme: "Preservation is the People's Choice."

The theme was chosen by the National Trust, which sponsors the annual weekly celebration of nationwide preservation efforts. The trust is a private, non-profit membership organization chartered by the U.S. Congress in 1949 to encourage the public to participate in the preservation of America's history and culture and to own historic properties.

The trust owns 17 historic-house museums throughout the country, including the Frank Lloyd Wright Home and Studio in Oak Park, Ill., and the Woodrow Wilson House in Washington, D.C.

Jones' professional career has been divided between preservation and government work. Before joining the Center for Historic Houses, she worked from 1985-87 as a legislative assistant for U.S. Sen. Mitch McConnell in Washington. She was also press secretary and special assistant to McConnell from 1983-85 during his term as Jefferson County judge-executive.

Before that, Jones was administrator of the Jefferson County Office of Historic Preservation and Archives from 1978-1983 and a member of the board of trustees and board of directors of Preservation Alliance of Louisville and Jefferson County. She was also director of research for the Historic Landmarks and and Preservation Districts Commission for the City of Louisville from 1974-78.

Jones said she enjoyed her work with McConnell. "But I really wanted to get into preservation on a daily basis. I was doing arts and preservation legislation, which was great, but it just really utilized a small portion of my time. Once it gets in your blood, you want to be involved in it all the time."

Jones was already familiar with the National Trust after serving on the board of advisors from 1981 to 1986 and as vice-chairman for the Southern region from 1983 to 1985 while living in Louisville. She's now on the boards of trustees of the Historic Alexandria Foundation and the D.C. Preservation League.

Her interest in preservation was developed while working on a master's degree in art and architectural history she received in 1974 from the University of Louisville.

She was writing a thesis on 19th century Louisville architect Henry Whitestone when she learned of plans to tear down the old Bushford Manor house, a Whitestone project on the corner of Bardstown Road and Bashford Manor Lane. She and others worked to save the house, but it was eventually demolished to build a bank branch.

Jones said that was before tax credits were established for owners of old homes as incentives to restore and use them. "That was the house that got me interested in preservation," she said.

Jones now travels around the country planning and assisting workshops and seminars put on by the Center for Historic

Houses. She recently attended the Tennessee Heritage Alliance conference in Jackson, Tenn., and will be travelling to Farmington, Conn. Last week, she was in Lexington, Ky.

She also supervises and contributes to a new column called "Homefront" for the National Trust's publication "Preservation News," The column is devoted to preservation and renovation topics for private homeowners.

She is divorced, and has a son, Ian, at Ballard High School and a daughter, Megan, at the University of Cincinnati.

Jones was born in Louisville but moved to Cincinnati as a child. She moved back here in 1988.

"I always love to come back to Louisville," she said.

"It's home. My Kentucky roots go very deep."●

INNOVATIVE TRAIN TECHNOLOGY TESTING IN THE NORTHEAST CORRIDOR

● Mr. PELL. Mr. President, both yesterday and today saw the testing of important new technology that may someday increase the speed and comfort of passenger rail travel within the Northeast corridor.

On May 12 and 13 the National Railroad Passenger Corporation [Amtrak] tested tilt and turbo rail technology in an effort to prove the feasibility of using these innovative designs to improve passenger rail service along the Northeast corridor. Additional testing is scheduled for September. Mr. President the Northeast corridor accounted for over 50 percent of all passenger rail traffic in the United States last year. The introduction of new technology along this corridor will effect the quality of life for many Americans.

A little over 10 years ago, Congress initiated a $2.5 billion Federal investment to substantially upgrade rail service along the Northeast corridor. In 1987, Congress continued to demonstrate its commitment to this vital transportation artery by directing Amtrak to carry-out tests of tilt and turbo technology. I consider it a privilege to have helped lead the way in this congressional commitment to passenger rail travel. Twenty-six years ago I stood on this floor and spoke of the need to develop the full potential of rail service within the Northeast corridor. Since that time I have worked to nurture the Northeast corridor as a vital transportation resource.

Mr. President, I am proud of my commitment and the commitment of Congress in promoting the progress of passenger rail service in the Northeast corridor. I am equally proud of the role the State of Rhode Island is playing as one of the testing sites for this innovative rail technology.

This existence of a testing program for tilt and turbo rail technology is also the result of efforts by the Coalition of Northeastern Governors High Speed Rail Task Force. The task force is headed by Massachusetts Gov. Michael Dukakis and Connecticut Gov. William O'Neill. They and the staff of the High Speed Rail Task Force should be commended for their efforts. Joining with the task force in conducting this testing program is the Federal Railroad Administration and Amtrak, who also deserve our thanks for working to improve passenger rail service within the increasingly utilized Northeast corridor.●

AMERICANS WITH DISABILITIES ACT

● Mr. RIEGLE. Mr. President, I am pleased to join today as a cosponsor of S. 2345, the Americans With Disabilities Act of 1988. Enactment of this legislation is needed to guarantee civil rights and nondiscrimination to all Americans, including those with disabilities.

S. 2345 establishes a comprehensive national mandate to eliminate discrimination against persons with disabilities. currently, people with disabilities are not covered by the Civil Rights Act of 1964, or by the Fair Housing Act of 1968. I believe we must correct this inequity by enacting the Americans With Disabilities Act, which would grant people with disabilities the same protection as that enjoyed other persons on the basis of race, sex, national origin and religion.

Mr. President, such protection is long overdue. Disabled Americans sometimes suffer intolerable discrimination in the workplace, in public accommodations, in education and in other critical areas. Housing and transportation services are often inaccessible. And it doesn't have to be that way.

Some 36,000,000 Americans have physical or mental disabilities. I think it is important to remember that any one of us can become disabled at any time, without warning. Our society has tended to isolate persons with disabilities, and though we have made great strides in recent years, discrimination continues to be a problem. The Americans With Disabilities Act seeks to bring all of these people into the mainstream, where they can contribute according to their full potential.

Mr. President, this Nation has long stood for equal opportunity, independence and self-sufficiency. Yet the continuing existence of discrimination, both intentional and unintentional, has left many disabled Americans without the ability to compete according to their abilities, which are too often wasted.

I have worked in this Congress to develop legislation which would improve the quality and availability of rehabilitation services for disabled Americans. In addition, I am currently developing legislation which would protect certain benefits for beneficiaries of the Social Security Disability Insurance Program to facilitate their ability to enter the work force. Yet rehabilitation and work efforts will not allow individuals to achieve their maximum potential unless we eradicate barriers to employment and transportation, and other forms of discrimination.

S. 2345 was developed by the National Council on the Handicapped, which is an independent agency comprised of 15 members appointed by the President and confirmed by the Senate. They have developed an excellent bill, which Senator WEICKER, a longstanding advocate of the rights of disabled Americans, has introduced in the Senate.

S. 2345 comprehensively defines discrimination, and sets limits on actions that do not constitute discrimination. The guidelines set by the bill should be viewed as the starting point of a national discussion on what constitutes appropriate actions to accommodate people with disabilities. We need to consider carefully whether we should eliminate the undue hardship criteria for reasonable accommodation, as this bill proposes.

We also need to consider the considerable expenses that businesses, and state and local governments would be required to incur under this bill. These entities may need federal assistance to facilitate compliance, and I believe the Federal Government may have to share the responsibility in this regard.

Mr. President, this bill points in the direction we must take if we are to meet our national goals of equal opportunity and civil rights for all Americans. I urge all of my colleagues to join me as cosponsors of this bill, and to work for its speedy enactment.●

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL FINANCIAL INFORMATION

Mr. WEICKER. Mr. President, I ask unanimous consent that a summary of the joint tax return for 1987 of my wife and myself be printed in the RECORD. This information is submitted in addition to my Public Financial Disclosure Statement for 1987 which was filed with the Secretary of the Senate today. The information provided here exceeds any requirement of law and is submitted in the spirit of complete financial disclosure.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

1987 Federal 1040 Recap of Lowell P. and Claudia T. Weicker, Jr.

[redacted]: filing status, married filing joint; exemptions, 4]

Form 1040 page 1

7. Wages, salaries, tips, etc	123,591
8. Taxable interest income	2,205
9. Tax-exempt interest income (Includes $39,370 interest on Connecticut State and municipal bonds)	42,571
10. Dividend income	10,177
11. Taxable refunds of State/local income tax	848
14. Capital gain (loss)	10,498
17. Rents royalties, K-1'S	−912
21. Other income	42,261
22. Total income	188,668
23. Reimbursed employee business expense	5,234
26. Keogh and SEP deduction	4,549
28. Alimony paid	73,500
29. Total adjustments	83,283
30. Adjusted gross income	105,385
31. Adjusted gross income	$105,385
33a. Itemized deductions	70,571
34. LN 31 less LN 33A	34,814
35. Exemption amount	7,600
36. Taxable income	27,214
37. Tax (table, rate, D, 8615)	3,964
38. Additional taxes (4970, 4972)	None
39. Tax before credits	3,964
42. LNS 40, 41 and REC, MIC	None
43. LN 39 less LN 42	3,964
44. Foreign tax credit (1116)	20
45. General business credit	0
46. LNS 44, 45 and other	20
47. Tax after credits	3,944
49. Alternative minimum tax (6251)	7,237
53. Total tax	11,181
54. Federal income tax withheld	20,235
62. Amount overpaid	9,054
63. Amount of refund	9,054
65. Amount you owe, Underpayment penalty (2210)	None

Carryovers to 1988

General business credit	$3
Foreign tax credit (U.S. Virgin Islands)	2,568
Suspended passive losses	586

1987 Miscellaneous Information

Marginal tax bracket: 15%.	
Total alt. min. tax preferences	34
Total alt. min adjustments	66,945
Schedule A medical, 4,680	
Less 7.5% AGI, 7,904	None
Schedule A taxes (see note below)	19,388
Schedule A interest	47,086
Schedule A contributions	1,353
Schedule A casualty/theft	None
Schedule A moving exp.	None
Schedule A misc. deduct. 2% AGI	2,744
Schedule A other misc deductions	None
Total itemized deductions	70,571

Taxes, other than U.S. Income Taxes, paid in 1987

State and local taxes	$8,794
Real estate tax	10,131
Personal Property Tax	463
Total	19,388

JAPANESE-UNITED STATES RELATIONSHIPS

Mr. STEVENS. Mr. President, over the course of the last few weeks, I have come to the Senate floor to make remarks concerning the current status of the Japanese-United States relationship. In remarks on April 29, 1988, I spoke to my colleagues about recent developments in Japanese domestic politics and made the point that the recent ascendancy of Noboru Takeshita to the position of Prime Minister did not represent a major change in the course of the Japanese Government. I also pointed out to the Senate that domestic Japanese political considerations are in the forefront of all governmental decision-making and that the United States must begin to pay more attention to internal Japanese developments if we are ever to hope that the foreign and trade policies of Japan are to be reshaped.

This morning, in the Wall Street Journal, there appeared a fascinating article written by Mr. Koichi Kato, a member of the Japanese Diet. In this article, which I will ask unanimous consent to insert in the RECORD, in full upon the completion of my remarks, Mr. Kato confirms my understanding of the current situation with respect to domestic politics in Japan and points out the role of the executive council of the ruling Liberal Democratic Party [LDP].

Mr. President, we, in America, must become more aware of the function of the LDP's executive committee. No change in Japanese foreign or domestic policy will ever occur without the consent of the Executive Committee. In fact, Mr. Kato points out that in the last 30 years, only two major policy decisions have been made by a majority vote of the LDP's members in the Diet.

The time has arrived for us to begin to learn about the executive committee and I suggest that we start by beginning a series of discussions with Members of the Diet and the committees of the LDP in which we in the Congress can examine the role and operation of the executive committee and the PARC subcommittees. Without such knowledge, Mr. President, we are destined to continue to be unable to understand the development of domestic and international policies by the Japanese Government.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 16, 1988]

MAKING INTERNATIONALISTS OUT OF DOMESTIC POLITICIANS

(By Koichi Kato)

"The fact that I campaigned for Kiichi Miyazawa, one of last year's contenders for what is now Prime Minister Noboru Takeshita's position, is no secret. But should you ask if I thought Japanese politics would be much different had Mr. Miyazawa won, I would have to objectively and somewhat regretfully say "no." The reason lies in the gap between our desire to improve Japan's cooperative relationships abroad and the constraints of our domestic politics. The gap between the best policies, internationally, and the necessary policies, when domestic and international pressures are considered, is a common problem of democracies.

For some years, Japan has been urging the U.S. to put its fiscal house in order, because, of course, this is also in our best interest. Since Japan has had its own fiscal austerity program, we have a hard time understanding why it is so difficult for the U.S. to do the same. Americans, on the other hand, are frustrated with the slowness of Japanese changes in trade and macroeconomic policies that many Japanese agree are needed. American statements that do not take into account the realities of Japanese domestic politics hit a stone wall. That is why "Japan-bashing" basically does not work. Sometimes it seems to create progress, but in fact a more sophisticated approach would yield better results with much less cost to our relationship.

Although Japan's political problems are basically the same as those in any democracy, there are important differences in style. For example, policies in Japan are rarely decided by a public process of majority voting.

In my Liberal Democratic Party, for instance, the rule against the use of a simple vote in decision-making is absolute. The party's Executive Council, its highest decision-making body, reviews not only the personnel and policy matters of the party, but also all bills destined to be submitted by the government to the Diet. Compromises are made, just as when a bill goes through the U.S. Congress. But in the Japanese case, these changes are not decided by voting. In the 30-year history of LDP, only two policy questions have been decided by majority vote. Both involved China—one was the normalization of realtions and the other was an aviation agreement. In these cases, the consensus was for a pro-China posture.

How is compromise achieved? It begins with informal negotiations behind the scenes, a process we call nemawashi. As it proceeds it allows for "letting off steam," which we call gasu nuki, to permit the venting of views for constituency purposes. Again I think there are close parallels in the U.S. with "sense of the Congress" resolutions or amendments that are allowed in the bills on the floor but are intended to be dropped in conference committees. In Japan, the interested members gradually are persuaded to entrust the final decisions to a leadership group including appropriate committee chairmen. The process ends when the remaining opponents are encouraged to absent themselves from the vote.

A key part of this process is to make sure that opponents "take a walk." Because the opposition is thus silenced, it often appears from the outside that ultimate decisions are unanimous. But in Japan, a consensus does not imply unanimity. Another rule of party policy making is that once the decision has been made, it is binding. It is a cardinal rule of the party that no LDP member, no matter how unhappy, may vote against it. Those who are unhappy absent themselves from the vote and tell their constituents that they fought the best they could, but it was the fault of bureaucrats. In the U.S.

too, the executive branch often serves as a scapegoat for congressmen.

Setting the producer's price for rice is a good example. When this price is negotiated annually, we have daily meetings lasting from early morning until late at night for a week or more. These meetings are attended by close to half of our 440 LDP Diet members. It is not surprising, therefore, that agricultural trade issues are so controversial in U.S.-Japan relations.

You are probably wondering how foreign interests can get a hearing in this process. Japan, of course, is often criticized for focusing exclusively on its own interests while failing to contribute to international interests. Japanese politicians, however, increasingly recognize that actions in accord with international interests are often in the best interest of Japan. For example, although it is not well-known, the Japanese government, unlike any European ally, has been paying a portion of the salaries of Japanese employees on U.S. bases in Japan since 1978. Japan also is seeking to support the U.S. military presence in the Persian Gulf indirectly by contributing more to the support of U.S. troops in Japan. Another area which Japan is rapidly increasing its international efforts is in the field of foreign assistance. Our foreign assistance will double over a five-year period that began in 1986, and we plan to recycle $20 billion in untied loans to developing countries.

How then can we move forward incrementally to promote better U.S.-Japan relations in the delicate trade and monetary areas? One way to improve this situation is to scale down unrealistic rhetoric and approach the Japanese political process in a more sophisticated manner. Americans should understand that Diet members who have construction companies in their districts are not going to state that they support hiring foreign firms to do Japanese government public-works projects. They would no sooner do this than a congressman from Detroit would stand up and say that in the interest of free trade he wants to end restraints on auto imports.

Admittedly, it is difficult to instruct domestic interest groups and domestically oriented politicians on how to operate most effectively to influence a foreign political process. One constructive possibility might be to encourage direct discussions among those who are strongly associated with domestic interests. If this kind of exchange among politicians becomes possible, I believe the frictions between the U.S. and Japan can be reduced and a stronger bilateral relationship of trust and cooperation can be built. Of course, we on the Japanese side would have to understand that U.S. politicians would continue to introduce bills we don't like, but we would know that those bills are often for public consumption or to present an initial position.

Ultimately, of course, the act of reconciling domestic pressures and international responsibilities is the individual responsibility of each of us in the political world. That is why it's important that more politicians, especially domestically oriented politicians, participate in the Trilateral Commission and similar international organizations. Politicians need to think in broad terms. World peace and international prosperity depend on politicians with a vision that rises above the narrow confines of domestic constituencies.

BRING ABE STOLAR HOME

Mr. LEVIN. Mr. President, in 1979, on a trip to Moscow, I met an American citizen who was trying to leave the Soviet Union with his wife and son. Abe Stolar, a gentleman you have heard me speak of many times in this Chamber, was determined to emigrate with his family.

Since then, I have written many letters on behalf of the Stolar family and have raised his case in meetings with Soviet officials. I have maintained contact with Abe and continue to be inspired by his determination and his spirit.

Nine years later, Mr. President, in March of this year, I visited Moscow again. Abe Stolar is still there.

The facts of his case are all too familiar, but they merit review. There have been numerous occasions when it seemed that the Soviets would allow the Stolars to leave, only to have their hopes cruelly dashed.

Abe, his wife, Gita, and their son, Michael, received permission to emigrate in 1975. After shipping all their belongings to Israel and selling their apartment, they went to Moscow International Airport to catch their flight to freedom. But, at the last minute the family was turned back on the pretext that Gita Stolar had access to state secrets in her job as an analytical chemist.

In November 1985, the New York Times published the names of 10 families that had been granted permission to leave the Soviet Union. All of those families have long since departed. All of them, that is, except the Stolars.

Again in April 1987, the Soviets announced that the Stolars would be among a group of refuseniks families permitted to leave. Again, they were disappointed.

In the 9 years I have known the Stolars, the family has grown. Michael has married Julia Shukhrat, and they have two children, Sarah and a new baby born April 29.

The latest obstacle preventing the Stolars from leaving is that Julia does not have permission from her mother. Julia has been refused twice on this basis, most recently in March, and there is little chance that her mother will change her mind. Julia and her mother have not been in contact for 8 years.

The Soviets have at times waived the procedure for parental permission, in particular in a number of high level cases, and I have asked them to do so again. They have yet to respond to that request.

I am encouraged that the number of Soviet Jews allowed to emigrate has increased in recent months, but I must ask: What possible reason can there be for the authorities to break up this close-knit family?

Mr. President, I draw your attention to a "Dear Colleague" which Senator SIMON and I have circulated on behalf of this family, and I ask my colleagues to add their signatures to the attached letters to President Reagan and General Secretary Gorbachev. The letters express the hope that when President Reagan returns from his 4-day meeting with Gorbachev, he will not only return with a better understanding of the Soviet Union: We hope that the President will return with Abe Stolar and his family. It is time to bring Abe Stolar home.

CALENDAR

Mr. BYRD. Mr. President, I inquire of the able Republican leader as to whether or not, on the calendar of regular business, Calendar Order 635 has been approved on his side?

Mr. DOLE. It has been approved on this side.

Mr. BYRD. I thank the Republican leader.

SSG CHARLES F. PREVEDEL BUILDING

Mr. BYRD. Mr. President, I ask unanimous consent the Senate proceed to consideration of Calendar Order No. 635.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1476) to designate the Federal Record Center at 9700 Page Boulevard, Overland, Missouri, as the "SSG Charles F. Prevedel Building."

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Record Center at 9700 Page Boulevard Overland, Missouri, shall be known and designated as the "SSG Charles F. Prevedel Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal Record Center referred to in section 1 shall be deemed to be a reference to the "SSG Charles F. Prevedel Building".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOB SIKES VISITOR CENTER

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 636, S. 1736.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1736) to designate the Federal building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center".

The Senate proceed to consider the bill.

AMENDMENT NO. 2095

(Purpose: To improve the transportation system in the State of Ohio)

Mr. BYRD. Mr. President, on behalf of Senators METZENBAUM and GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Mr. METZENBAUM and Mr. GLENN, proposes an amendment numbered 2095.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 129 of Title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"SEC. . VOIDING OF CERTAIN AGREEMENT.—Upon the request of the Ohio Turnpike Commission of the Ohio Turnpike (I-80, I-90 and I-76 in the State of Ohio) and the State of Ohio, the Secretary shall:

"(1) enter into an agreement providing that toll revenues from operation of the tolled Ohio Turnpike facility will be used only on such facility for construction and reconstruction costs and for the costs necessary for the proper operation and debt service of such facility (including resurfacing, reconstruction, rehabilitation, and restoration); and

"(2) void Agreement No. 1264, dated July 14, 1964, entered into with said Commission and the State of Ohio with respect to such facility as authorized under Section 129(d) of Title 23, United States Code."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2095) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, shall hereafter be known and designated as the "Bob Sikes Visitor Center".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Bob Sikes Visitor Center".

SEC. 3. OHIO TRANSPORTATION SYSTEM.

VOIDING OF CERTAIN AGREEMENT.—Upon the request of the Ohio Turnpike Commission of the Ohio Turnpike (I-80, I-90 and I-76 in the State of Ohio) and the State of Ohio, the Secretary shall:

(1) enter into an agreement providing that toll revenues from operation of the tolled Ohio Turnpike facility will be used only on such facility for construction and reconstruction costs and for the costs necessary for the proper operation and debt service of such facility (including resurfacing, reconstruction, rehabilitation, and restoration); and

(2) void Agreement No. 1264, dated July 14, 1964, entered into with said Commission and the State of Ohio with respect to such facility as authorized under Section 129(d) of Title 23, United States Code.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILLS PLACED ON CALENDAR—H.R. 4448 AND H.R. 3987

Mr. BYRD. Mr. President, I ask unanimous consent that the following bills be deemed to have had their second reading and then be placed on the calendar:

H.R. 4448, a bill to designate the general mail facility in Cleveland, Ohio, as the "John O. Holly Building."

H.R. 3987, a bill to designate a post office in Springfield, Missouri, as the "Gene Taylor Post Office Building."

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF CHARLES FRANKLIN DUNBAR

Mr. BYRD. Mr. President, does the distinguished Republican leader have any further statement he would like to make?

Mr. DOLE. Only to indicate that I would hope—and I might say it is somewhat on my side of the aisle—that we might be able to free up the nomination of Charles Franklin Dunbar to be Ambassador to the Yemen Arab Republic.

It was reported on February 17, 1988. It has been on the calendar for some time.

I have been asked by the Secretary of State on two or three occasions to see if I could move this nomination. I know there is no problem on the majority side. I hope anyone on the minority, the Republican side, who has a problem with this nomination will discuss it with me. I would be happy to discuss any problem they might have.

Mr. BYRD. Mr. President, the statement by the distinguished Republican leader is very persuasive, and I am sure will be observed carefully. I will be happy to cooperate in any way I can for this side of the aisle.

ORDERS FOR TUESDAY

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE LEADERS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders, or their designees, are recognized under the standing order on tomorrow, that they be recognized each for 5 minutes only.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF THE DOD AUTHORIZATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the two leaders, or their designees, on tomorrow morning the Senate resume consideration of the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the rollcall vote begin precisely at 9:30 a.m. tomorrow, without any quorum prior thereto and that the calls for the regular order be automatic at the close of 20 minutes, that being an early vote and the first vote tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FROM 12:45 PM UNTIL 2 PM

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate, on tomorrow, stand in recess from the hour of 12:45 p.m. until the hour of 2 p.m., to accommodate the regular party conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 8:44 p.m., the Senate recessed until tomorrow, Tuesday, May 17, 1988, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 1988:

DEPARTMENT OF STATE

JOHN THOMAS MCCARTHY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERCA TO THE REPUBLIC OF LEBANON.

EDWARD PETER DJEREJIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

INTERNATIONAL BANKS

W. ALLEN WALLIS, OF NEW YORK, TO BE U.S. ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 5 YEARS; AND U.S. ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF 5 YEARS REAPPOINTMENTS.

DEPARTMENT OF DEFENSE

DAVID S.C. CHU, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, NEW POSITION—PUBLIC LAW 100-180.

KENNETH P. BERGQUIST, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE CHARLES G. UNTERMEYER, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

VIANMAR G. PASCUAL, xxx-xx-xxxx
FRANK H. WAGNER, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTIONS 8374, TITLE 10 OF THE UNITED STATES CODE. EFFECTIVE DATE FOLLOWS SERIAL NUMBER:

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. JOHN C. BARBRR, xxx-xx-xxxx 12/12/87
MAJ. UNES J. BOOTH, xxx-xx-xxxx 2/20/88
MAJ. V. SANDY CAIN, xxx-xx-xxxx 2/20/88
MAJ. MICHAEL G. CULLEN, xxx-xx-xxxx 12/15/87
MAJ. JAMES C. FOREMAN, xxx-xx-xxxx 2/6/88
MAJ. MELVIN S. GUILFORD, xxx-xx-xxxx 12/14/87
MAJ. GARY L. HASELOH, xxx-xx-xxxx 2/18/88
MAJ. KENNETH U. JORDAN, xxx-xx-xxxx 1/4/88
MAJ. ROBERT E. MARTIN, xxx-xx-xxxx 2/5/88
MAJ. JOHN E. MELSSEN, xxx-xx-xxxx 2/6/88
MAJ. RONALD A. MOORE, xxx-xx-xxxx 2/5/88
MAJ. MILES B. ORTON, JR., xxx-xx-xxxx 2/5/88
MAJ. JERRY W. RAGSDALE, xxx-xx-xxxx 2/6/88
MAJ. MARK J. RENCHER, xxx-xx-xxxx 9/21/88
MAJ. DANIEL R. ROTA, xxx-xx-xxxx 1/28/88
MAJ. WILLSON M. SAKAI, xxx-xx-xxxx 1/10/88
MAJ. WILLIAM G. SHEEHAN, xxx-xx-xxxx 2/19/88
MAJ. ALLEN L. STARR, xxx-xx-xxxx 1/31/88
MAJ. VERNON D. THOMPSON, JR., xxx-xx-xxxx 2/5/88
MAJ. CHARLES D. YOUNGQUIST, xxx-xx-xxxx 2/18/88

LEGAL CORPS

MAJ. JAMES R. BROWN, xxx-xx-xxxx 2/12/88

MEDICAL CORPS

MAJ. JAMES E. JONES, JR., xxx-xx-xxxx 2/7/88

DENTAL CORPS

MAJ. CHARLES J. BUONASERA, xxx-xx-xxxx 12/6/87
MAJ. KENNETH D. TRICINELLA, xxx-xx-xxxx 1/10/88

IN THE NAVY

THE FOLLOWING-NAMED FORMER U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ANDREW B. CARLSEN
MARION C. HARPER
THOMAS J. O'NEIL III
JOSEPH A. PELLECCHIA
WILLIAM F. SCHRANTZ
JAMES STOVER

THE FOLLOWING MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JAMES I. ABBENHAUS

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

ROBERT R. INGRAM
WILLIAM H. JOHNSON
NEIL A. KARNES
JACKSON T. KING
GREGORY J. KOLB
JEFFERY A. LACKOVIC
DOYNE M. MONTY
DALLAS B. NOE
DAVID J. PAGE
JEFFREY M. PLUMMER
GREGORY A. REHARD
TIMOTHY M. SCHRATWIESER
DONALD H. STAFFORD
DAVID P. STEWART
KARLA L. STRAUCH
TERRY L. TAULBEE
ANDREW J. TIMMER
JOHN R. WHEELER, JR.

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

WALTER E. BECK
WILLIAM A. BOGGS
DANIEL E. FUHRMAN
MICHAEL V. HARBER
KURT P. HARDY
PAUL R. LUMSDEN
ROBERT G. WELLS
BRIAN D. WHITTEN

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BRIAN J. BILL
JAMES R. MULDOON
CAROLYN C. SLOWIKOWSKI
MARK L. WHITAKER

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

EUGENE M. DER MANUEL, JR.

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

MICHAEL A. CLARK
JOHN C. MANGRUM
R. NICOLL PRATT, JR.
JAMES W. WILSON

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

WILLIAM R. BANAS, xxx-xx-xxxx
DAVID H. GREMILLIION, xxx-xx-xxxx
DAVID R. HAFERMAN, xxx-xx-xxxx
RALPH H. JOHNS, xxx-xx-xxxx
JOHN P. MCCARTHY, xxx-xx-xxxx

To be lieutenant colonel

TEE S. CAMPION, xxx-xx-xxxx
RICHARD F. JONES, xxx-xx-xxxx
DAN L. LOCKER, xxx-xx-xxxx
JOHN R. MARSH, xxx-xx-xxxx
JON K. PLUMMER, xxx-xx-xxxx
JAMES A. RUFFER, xxx-xx-xxxx

To be major

JERROLD N. FLYER, xxx-xx-xxxx
URIL C. GREENE, xxx-xx-xxxx
SCOTT W. MONORE, xxx-xx-xxxx
MONIQUE A. RYSER, xxx-xx-xxxx
NELSON H. STURGIS, xxx-xx-xxxx
MARIO A. TANCHEZ, II, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

LARRY J. CASEY, xxx-xx-xxxx
DAVID F. CLAPP, xxx-xx-xxxx
JAMES H. FOSTER, xxx-xx-xxxx
EDWARD D. I. GALL, II, xxx-xx-xxxx
CARL M. GRIFFITH, xxx-xx-xxxx
MARK S. HAGGE, xxx-xx-xxxx
SHELDON R. MANN, xxx-xx-xxxx
ARMEN S. ROUBIAN, xxx-xx-xxxx
MICHAEL G. WILEY, xxx-xx-xxxx

To be major

ALICE T. BRITTAIN, xxx-xx-xxxx
RAYMOND J. BYRON, xxx-xx-xxxx
GERALD A. CARON, xxx-xx-xxxx
KEVIN A. CONNOR, xxx-xx-xxxx
WILLIAM R. ENGLISH, xxx-xx-xxxx
JAMES P. FANCHER, xxx-xx-xxxx
JAMES A. GLAESS, xxx-xx-xxxx
JOSEPH HARVEY, xxx-xx-xxxx
DOUGLAS L. HIMMELBERG, xxx-xx-xxxx
LYNN M. JOHNSON, xxx-xx-xxxx
NATHAN W. SCHWANDT, xxx-xx-xxxx
JERRY R. SHAEFER, xxx-xx-xxxx
GARY V. VIGIL, xxx-xx-xxxx

To be captain

THOMAS W. BECKMAN, xxx-xx-xxxx
EARL ELLIS, xxx-xx-xxxx
ROBERT K. FROME, xxx-xx-xxxx
RANDALL G. GRIFFIN, xxx-xx-xxxx
VON J. KUNZ, xxx-xx-xxxx
JOHN B. MCCROSKEY, xxx-xx-xxxx
MARY E. MCLEAN, xxx-xx-xxxx
DAVID MIKITKA, xxx-xx-xxxx
MARK S. RASCH, xxx-xx-xxxx
RICHARD L. ROBINETTE, xxx-xx-xxxx
ARJEN L. VAN DE VOORDE, xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

MICHAEL W. BERG, xxx-xx-xxxx
TIMOTHY G. CLOONAN, xxx-xx-xxxx
STEPHEN H. KNUDSON, xxx-xx-xxxx
PAUL A. LIPPMAN, xxx-xx-xxxx
ALBERTO MADRID, xxx-xx-xxxx
GENE A. MANZER, xxx-xx-xxxx
JOHN S. WATSON, xxx-xx-xxxx

THE FOLLOWING AIR FORCE OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be major

RICHARD E. LINCK, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

DONALD D. COATES, xxx-xx-xxxx

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE ACTIVE DUTY LIST OF THE REGULAR AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 1210 AND 1211, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be captain

DWAYNE L. MOORE, xxx-xx-xxxx

THE FOLLOWING CADETS, UNITED STATES AIR FORCE ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTIONS 9353(B) AND 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

BIOMEDICAL SCIENCES CORPS

MARYBETH KEFFER, xxx-xx-xxxx
HEIDI M. STEFFAN, xxx-xx-xxxx

MEDICAL SERVICES CORPS

NANCY J. BALKUS, xxx-xx-xxxx
CORI A. MOSIER, xxx-xx-xxxx
BILLIANA OWENS, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING CADETS, UNITED STATES AIR FORCE RESERVE OFFICERS TRAINING CORPS, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF SECOND LIEUTENANT UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

KEVIN T. ABRAHAM, xxx-xx-xxxx
ROBERT L. ACKER, xxx-xx-xxxx
AARON J. ALACHEFF, xxx-xx-xxxx
CALVIN N. ANDERSON, xxx-xx-xxxx
JOHN R. ANDERSON, xxx-xx-xxxx
RICHARD N. ANDERSON, xxx-xx-xxxx
GEOFFREY J. AYER, xxx-xx-xxxx
WILLIAM D. BAILEY, xxx-xx-xxxx
JAMES H. BAKER, xxx-xx-xxxx

MERRILL D. BALLENGER, xxx-xx-xxxx
STEPHEN F. BANIECKI, xxx-xx-xxxx
SALVADOR E. BARBOSA, xxx-xx-xxxx
BRIAN E. BATT, xxx-xx-xxxx
KIRK H. BAUR, xxx-xx-xxxx
RICHARD G. BEAM, xxx-xx-xxxx
TERESA M. BEARDSLEE, xxx-xx-xxxx
GREGORY J. BELOYNE, xxx-xx-xxxx
RODNEY K. BERK, xxx-xx-xxxx
KENNETH B. BERRY, xxx-xx-xxxx
PATRICIA D. BIELAK, xxx-xx-xxxx
CAROL A. BIERNESSER, xxx-xx-xxxx
PETER D. BIRD, xxx-xx-xxxx
BENJAMIN W. BOBO, xxx-xx-xxxx
MICHAEL D. BOLLWITT, xxx-xx-xxxx
RICHARD W. BOLTZ, xxx-xx-xxxx
STEWART B. BOOHER, xxx-xx-xxxx
JOEL H. BOOTH, xxx-xx-xxxx
SCOTT C. BOWEN, xxx-xx-xxxx
JAMIE S. BRADY, xxx-xx-xxxx
ROBERT M. BRAWLEY, xxx-xx-xxxx
JAMES R. BRAY, xxx-xx-xxxx
MICHAEL W. BREITLING, xxx-xx-xxxx
CHRISTINE M. BRINKMAN, xxx-xx-xxxx
STEPHEN R. BROUGH, xxx-xx-xxxx
GREGORY S. BROWN, xxx-xx-xxxx
STEVEN E. BRUKWICKI, xxx-xx-xxxx
MICHAEL P. BUONAUGURIO, xxx-xx-xxxx
JAMES B. BURRIS, xxx-xx-xxxx
JAMES B. BURTON, xxx-xx-xxxx
DERRICK D. BUTLER, xxx-xx-xxxx
THOMAS K. CAHILL, xxx-xx-xxxx
CATHERINE M. CANAVAN, xxx-xx-xxxx
CHRISTOPHER G. CANTU, xxx-xx-xxxx
LAWRENCE D. CAREY, xxx-xx-xxxx
EDWARD V. CASSIDY, xxx-xx-xxxx
CHARLES R. CHAMBERS, xxx-xx-xxxx
KEVIN CHAMBERS, xxx-xx-xxxx
SANDRA M. CHANDLER, xxx-xx-xxxx
DOROTHY L. CHARLESTON, xxx-xx-xxxx
CHARLES A. CHEATHAM, xxx-xx-xxxx
WALTER C. CHRISTIE, JR., xxx-xx-xxxx
JEFFREY E. CLIFTON, xxx-xx-xxxx
KEVIN CLOTFELTER, xxx-xx-xxxx
JONATHAN C. CLOUGH, xxx-xx-xxxx
ANTHONY G. COIA, xxx-xx-xxxx
STEVEN D. COLBY, xxx-xx-xxxx
CHARLES R. CONARD, xxx-xx-xxxx
KIMBERLY J. COOPER, xxx-xx-xxxx
BRIAN C. COPELLO, xxx-xx-xxxx
ERIC V. COULTER, xxx-xx-xxxx
RANDALL L. CREWS, xxx-xx-xxxx
LARRY J. DANNALLEY, JR., xxx-xx-xxxx
PATRICIA A. DANOWSKI, xxx-xx-xxxx
WILLIAM B. DANSKINE, xxx-xx-xxxx
KATHERINE A. DARBY, xxx-xx-xxxx
JEFFREY M. DAVIS, xxx-xx-xxxx
MARK P. DILIBERTO, xxx-xx-xxxx
STEVEN I. DOUB, xxx-xx-xxxx
RONALD J. DOUGHERTY, xxx-xx-xxxx
KEVIN N. EARNEST, xxx-xx-xxxx
ROBERT M. EATMAN, xxx-xx-xxxx
MARLIN D. EDWARDS, JR., xxx-xx-xxxx
DONALD R. ELLER, xxx-xx-xxxx
RALPH L. ELLIS, xxx-xx-xxxx
TIMOTHY W. ESTEP, xxx-xx-xxxx
REX R. EWERT, xxx-xx-xxxx
STEPHANIE A. FINLEY, xxx-xx-xxxx
JAY R. FISHER, xxx-xx-xxxx
TERESA L. FITZPATRICK, xxx-xx-xxxx
ROBERT D. FLYNN, xxx-xx-xxxx
GREGORY J. FOURATT, xxx-xx-xxxx
RUSSELL E. FOX, xxx-xx-xxxx
BRIAN E. FREDRIKSSON, xxx-xx-xxxx
KENNETH D. FROLLINI, xxx-xx-xxxx
JERRY L. GAUDET, xxx-xx-xxxx
THOMAS W. GEARY, xxx-xx-xxxx
DAVID L. GILL, xxx-xx-xxxx
RUSSELL D. GILL, xxx-xx-xxxx
JAMES T. GLENN, xxx-xx-xxxx
KEVIN B. GLENN, xxx-xx-xxxx
PETER E. GOLDFEIN, xxx-xx-xxxx
JONATHAN A. GRAMMER, xxx-xx-xxxx
DAVID R. GREEN, xxx-xx-xxxx
JONATHAN J. GREENE, xxx-xx-xxxx
PAUL H. GUEMMER, xxx-xx-xxxx
CATHERINE E. HAGREEN, xxx-xx-xxxx
ERIC S. HALL, xxx-xx-xxxx
DAVID W. HAMMACK, xxx-xx-xxxx
WILLIAM M. HARNLY, xxx-xx-xxxx
MICHAEL A. HARPER, xxx-xx-xxxx
RICKEY O. HARRINGTON, xxx-xx-xxxx
DAVID C. HATHAWAY, xxx-xx-xxxx
JEROME S. HAYES, xxx-xx-xxxx
BARBARA D. HEJLIK, xxx-xx-xxxx
LORETTA A. HEMBREE, xxx-xx-xxxx
DALE W. HILGENDORF, xxx-xx-xxxx
BARBARA G. HILL, xxx-xx-xxxx
CAREY L. HOBSON, xxx-xx-xxxx
LISA D. HOCHMUTH, xxx-xx-xxxx
KEITH A. HOCTER, xxx-xx-xxxx
SCHEID F. HODGES, xxx-xx-xxxx
JEFFREY W. HODGSON, JR., xxx-xx-xxxx
ERIC L. HOLSTROM, xxx-xx-xxxx
DOUGLAS M. HOOKS, xxx-xx-xxxx
SHAUN D. HOUSE, xxx-xx-xxxx
SHARON J. HURRY, xxx-xx-xxxx
CHRISTOPHER J. JACKSON, xxx-xx-xxxx
CAROL A. JANNI, xxx-xx-xxxx
PAUL D. JOHNSON, xxx-xx-xxxx
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THOMAS A. JOHNSON, xxx-xx-xxxx
GREGORY C. JONES, xxx-xx-xxxx
KAROL A. KAMA, xxx-xx-xxxx
STEPHEN J. KARIS, xxx-xx-xxxx
MICHAEL B. KATKA, xxx-xx-xxxx
RANDY A. KAUFFMAN, xxx-xx-xxxx
REBECCA A. KELLER, xxx-xx-xxxx
FADI P. KHURI, xxx-xx-xxxx
STEVEN P. KIRIK, xxx-xx-xxxx
KIMBERLIN D. KLUMP, xxx-xx-xxxx
TODD J. KOREY, xxx-xx-xxxx
KAREN R. KOSSEL, xxx-xx-xxxx
WESLEY D. KREMER, xxx-xx-xxxx
KYLE B. KRISTEL, xxx-xx-xxxx
GREGORY A. KROCHTA, xxx-xx-xxxx
CLAYTON G. LAGRONE, xxx-xx-xxxx
BRIAN W. LANDRY, xxx-xx-xxxx
SCOTT C. LATTIMER, xxx-xx-xxxx
KELLY A. LAWSON, xxx-xx-xxxx
DEAN W. LEE, xxx-xx-xxxx
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MELANIE M. LESHER, xxx-xx-xxxx
DAVID M. LEVINE, xxx-xx-xxxx
CATHERINE J. LIN, xxx-xx-xxxx
HOWARD S. LOLLER, xxx-xx-xxxx
GARRETT L. LONDON, xxx-xx-xxxx
JAMES R. LOWRY, xxx-xx-xxxx
DAVID J. LUCIA, xxx-xx-xxxx
STEPHANIE A. LUM, xxx-xx-xxxx
BRUCE G. LUNDIE, xxx-xx-xxxx
KATHLEEN C. MADDEN, xxx-xx-xxxx
MICHAEL E. MADISON, xxx-xx-xxxx
BRADLEY D. MALLARE, xxx-xx-xxxx
PAUL R. MANCINI, xxx-xx-xxxx
PETER A. MARKLE, xxx-xx-xxxx
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TINA E. MCCUNE, xxx-xx-xxxx
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CAREY M. MCKINNEY, xxx-xx-xxxx
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DAVID C. MCPHETRES, xxx-xx-xxxx
PATRICE A. MELANCON, xxx-xx-xxxx
TAL W. METZGAR, xxx-xx-xxxx
JOHN M. MIGYANKOU, xxx-xx-xxxx
SHARI T. MILES, xxx-xx-xxxx
DANIEL A. MILLER, III, xxx-xx-xxxx
MICHELLE C. MILLER, xxx-xx-xxxx
CHRISTOPHER A. MOFFETT, xxx-xx-xxxx
PHILIP J. MOHLER, xxx-xx-xxxx
JEWEL J. MOORE, xxx-xx-xxxx
THOMAS C. MOORE, xxx-xx-xxxx
JAMES M. MORGAN, xxx-xx-xxxx
KARI A. MOSTERT, xxx-xx-xxxx
CORNELIUS T. MULLANEY, xxx-xx-xxxx
JANET E. MURPHY, xxx-xx-xxxx
RICHARD C. NAVE, xxx-xx-xxxx
SHEILA M. NEELY, xxx-xx-xxxx
STEPHEN J. NESBITT, xxx-xx-xxxx
TIMOTHY J. NOLAN, xxx-xx-xxxx
THOMAS W. NORRIS, xxx-xx-xxxx
KIPPER L. ODUM, xxx-xx-xxxx
KIRK G. OTTERSON, xxx-xx-xxxx
CAREN V. OUELLETTE, xxx-xx-xxxx
TERESA M. PACIFICO, xxx-xx-xxxx
JOHN W. PALMIERI, xxx-xx-xxxx
BRIAN A. PARKER, xxx-xx-xxxx
JEFFREY H. PARKER, xxx-xx-xxxx
DALE A. PARSONS, xxx-xx-xxxx
KIMBERLY J. PATTERSON, xxx-xx-xxxx
KYLE E. PELKEY, xxx-xx-xxxx
WILLIAM T. PELSTER, xxx-xx-xxxx
DONALD R. PENDERGRAFT, xxx-xx-xxxx
KIMBERLY D. PERKINS, xxx-xx-xxxx
DONALD L. PETROS, xxx-xx-xxxx
TODD R. PHINNEY, xxx-xx-xxxx
DAVID J. POHLEN, xxx-xx-xxxx
CATHERINE A. POSTON, xxx-xx-xxxx
RAYMOND A. POWELL, xxx-xx-xxxx
JOHANNA S. QUIRANTE, xxx-xx-xxxx
DOUGLAS M. RAUSCH, xxx-xx-xxxx
RANDER RICE, xxx-xx-xxxx
MELISSA M. RICHARDS, xxx-xx-xxxx
JOSE A. RIVERGAUD, xxx-xx-xxxx
BARENT M. ROGERS, xxx-xx-xxxx
JENNIFER L. ROHRER, xxx-xx-xxxx
DAVID L. ROMUALD, xxx-xx-xxxx
JAMES P. ROSS, xxx-xx-xxxx
LISA J. ROTHWELL, xxx-xx-xxxx
MICHAEL J. ROWE, xxx-xx-xxxx
WILLIAM C. RUOTOLA, xxx-xx-xxxx
JAMES P. RYAN, xxx-xx-xxxx
CHRISTINE C. SANDERS, xxx-xx-xxxx
EMMANUEL SARIDAKIS, xxx-xx-xxxx
PETER E. SARTINO, xxx-xx-xxxx
SCOTT A. SAUTER, xxx-xx-xxxx
BARRE R. SEGUIN, xxx-xx-xxxx
RANDY L. SEXTON, xxx-xx-xxxx
BRETT D. SHARP, xxx-xx-xxxx
LOREN H. I. SHELLABARGER, II, xxx-xx-xxxx
JOSEPH SIMILE, JR., xxx-xx-xxxx
ANNE B. SIMPSON, xxx-xx-xxxx
JOHN H. SITTON, xxx-xx-xxxx
RICHARD H. SOBOTTKA, xxx-xx-xxxx
EDWARD D. SOMMERS, xxx-xx-xxxx
MERRICE SPENCER, xxx-xx-xxxx
CHRISTINE S. SPURGEON, xxx-xx-xxxx
DEBORA B. ST PIERRE, xxx-xx-xxxx
RAYMOND W. STAATS, xxx-xx-xxxx
STANLEY STAFIRA, xxx-xx-xxxx
KATHRYN A. STEVENS, xxx-xx-xxxx
ALAN C. STEWART, xxx-xx-xxxx
DOUGLAS C. STORR, xxx-xx-xxxx
WEATHERLY A. STRADLEY, xxx-xx-xxxx
MARK D. TERRY, xxx-xx-xxxx
MARK W. TESMER, xxx-xx-xxxx
WILLIAM S. TEWKSBURY, xxx-xx-xxxx
LISA M. THIEDE, xxx-xx-xxxx
NATHAN D. THOMAS, xxx-xx-xxxx
SCOTT A. THOMAS, xxx-xx-xxxx
WILLIAM C. THOMAS, xxx-xx-xxxx
BRADLEY P. THOMPSON, xxx-xx-xxxx
ROBERT L. THORPE, xxx-xx-xxxx
TIFFANY A. TOCHTERMAN, xxx-xx-xxxx
KRISTEN L. TOOL, xxx-xx-xxxx
JAMES H. TWEET, xxx-xx-xxxx
SCOTT S. TYLER, xxx-xx-xxxx
KEVIN H. VAN HALL, xxx-xx-xxxx
CHARLES T. VANDENBOSSCHE, xxx-xx-xxxx
PAUL L. VIOLETTE, xxx-xx-xxxx
KARL W. VONLUHRTE, xxx-xx-xxxx
JOHN A. WAGNER, xxx-xx-xxxx
SAMUEL E. WALLACE, xxx-xx-xxxx
ELIZABETH K. WARDEN, xxx-xx-xxxx
MICHAEL D. WATSON, xxx-xx-xxxx
MICHAEL K. WEBB, xxx-xx-xxxx
ERNEST P. WEBER, xxx-xx-xxxx
MARK F. WENGER, xxx-xx-xxxx
LEE R. WHITTINGTON, xxx-xx-xxxx
LISA J. WIEDE, xxx-xx-xxxx
KARI L. WILD, xxx-xx-xxxx
THOMAS M. WILLIAMS, xxx-xx-xxxx
TRAVIS A. WILLIS, JR., xxx-xx-xxxx
TERRANCE C. WINKLER, xxx-xx-xxxx
DUDLEY C. WIREMAN, xxx-xx-xxxx
MICHAEL A. WORMLEY, xxx-xx-xxxx
JEFFREY K. YOUNG, xxx-xx-xxxx
LING YUNG, xxx-xx-xxxx
TIMOTHY C. ZIMMER, xxx-xx-xxxx
RHONDA M. ZOZ, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS AND MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

DAVID J. ABBOTT, xx...
CHARLIE H. ADAMS, JR., xx...
PAUL D. ADAMS, xx...
DANIEL AGUILAR, xx...
BYRON A. ALEXANDER, xx...
ANDREW M. ALLEN, xx...
BRUCE C. ANDERSON, xx...
CHARLES E. ANGERSBACH, JR., xx...
RUSSELL J. ARMENTROUT, xx...
RICHARD P. ARP, xx...
RALPH B. ARQUIETTE, xx...
JOHN L. BACON, xx...
GERARD B. BAIGIS, xx...
MICHAEL J. BARKER, xx...
RANDY C. BARKER, xx...
BRUCE M. BARNES, xx...
WILLIAM W. BARTLETT, xx...
RALPH S. BATTLES, JR., xx...
LUTHER M. BEATY, xx...
GARY L. BEAVER, xx...
LARRY G. BEAVERS, xx...
LINDA L. BELANGER, xx...
ROBERT F. BENNING, JR., xx...
DEBORA K. BENTON, xx...
JOHN L. BERGSTROM, IV, xx...
DAVID W. BICK, xx...
PAUL E. BILLIPS, xx...
GLENN C. BIXLER, xx...
ARTHUR L. BLODGETT, xx...
DENNIS E. BOSCO, xx...
JOHN F. BOWER, xx...
JOHN J. BRADUNAS, xx...
JERRY D. BRISTOW, xx...
RICHARD W. BRITTON, xx...
THOMAS G. BRUNNER, xx...
JOHN A. BUKAUSKAS, xx...
MARTIN T. BURNETT, xx...
FELIX M. BUSH, xx...
WILLIAM G. BUTLER, III, xx...
REX A. CAPRO, xx...
CHARLES A. CHAMBLISS, xx...
JOHNNY F. CHARLES, xx...
DOUGLAS L. CLUBINE, xx...
JAMES W. CLUCK, JR., xx...
ROBERT J. COATES, xx...
CARL G. COBB, xx...
ALLEN A. COCKS, xx...
HAROLD L. COMPTON, xx...
EUGENE K. CONTI, xx...
TERRENCE P. COOK, xx...
ALLEN COULTER, xx...
CONSTANT P. CRAIG, xx...
ROBERT L. CREAMER, JR., xx...
JOHN T. CUNNINGS, xx...
JOHN P. CURRY, xx...
JAMES M. DAVIS, xx...
MILTON DEARMAN, xx...
WILLIAM T. DECAMP, III, xx...
ARMANDO G. DEGUZMAN, xx...
CHARLES E. DELAIR, xx...
JOHN D. DEWITT, JR., xx...
GILBERT B. DIAZ, xx...

MICHAEL E. DICK, xx...
ROGER K. DIEHL, xx...
FRANK J. DIFALCO, xx...
JUNE M. DIGNAN, xx...
BRIAN D. DINGESS, xx...
MICHAEL F. DOLAN, xx...
EMIL J. DOMBROWSKI, JR., xx...
LEO M. DONNELLY, xx...
RICK O. DONOVAN, xx...
JEFFREY J. DORAN, xx...
HARRY M. DOWNEY, III, xx...
ROBERT D. DOZIER, xx...
MICHAEL L. DRENNAN, xx...
MILAN E. DUBOIS, JR., xx...
RUSSELL E. DUENOW, xx...
JOSEPH F. DUNFORD, JR., xx...
JOHN M. DUNN, xx...
TIMOTHY D. EASON, xx...
GEORGE H. ECKHOFF, xx...
STEVEN M. EDDY, xx...
LLOYD P. EDWARDS, xx...
THOMAS D. EDWARDS, xx...
ROGER S. ELDRIDGE, xx...
STEVEN T. ELKINS, xx...
JOHN T. ENOCH, JR., xx...
DOUGLAS L. ERLEY, xx...
FRANK W. ESPOSITO, xx...
JAY C. FARRAR, xx...
STEPHEN M. FENSTERMACHER, xx...
SAMUEL E. FERGUSON, xx...
EDWIN FIELDER, JR., xx...
THOMAS W. FITZGERALD, xx...
ROBERT E. FOULK, xx...
RAYMOND C. FOX, xx...
TIMOTHY J. FOX, xx...
DAVID W. FURTNETT, xx...
JAY E. GALLAGHER, xx...
VICTOR M. GARDNER, III, xx...
DAVID L. GARRARD, xx...
LESLIE C. GARRISON, xx...
CHARLES C. GENTRY, xx...
VINCENT C. GIANI, xx...
ROYCE GIBSON, xx...
DAVID E. GLASS, xx...
BRUCE L. GODFREY, III, xx...
HENRY C. GOLD, JR., xx...
JOSEPH W. GOODROW, xx...
ERIC J. GREEN, xx...
THOMAS C. GREENWOOD, xx...
MARK A. GRUBB, xx...
WILLIAM F. GUILFOYLE, xx...
JAMES A. HAIG, xx...
GARY L. HALL, xx...
TERRY HAMILTON, xx...
PAUL A. HAND, xx...
ROY D. HANNIGAN, xx...
WILLIAM D. HARDY, xx...
RODGER C. HARRIS, xx...
JOSEPH A. HAUSER, xx...
CHARLES T. HAYES, xx...
JIMMY R. HAYES, xx...
THOMAS R. HAZARD, xx...
RICHARD W. HESS, xx...
WILLIAM G. HESSLER, xx...
HERBERT L. HEYL, JR., xx...
JAMES B. HILL, xx...
WALLACE W. HILLS, JR., xx...
EDDIE L. HOLCOMB, xx...
DONALD R. HOLMES, xx...
FLOYD D. HOUSTON, xx...
GLENN S. HUELSKAMP, xx...
LARRY D. HUFFMAN, xx...
STEVEN A. HUMMER, xx...
ROGER B. HUMPHREYS, xx...
ERNEST D. IBARRA, xx...
HOWARD E. IMHOF, JR., xx...
KENNETH A. INMAN, JR., xx...
JOSEPH P. INNERST, xx...
GEORGE W. IRLBACHER, JR., xx...
JAMES A. JACKSON, xx...
JOHN J. JACKSON, xx...
OTIS J. JACKSON, JR., xx...
JOHN W. JAMES, xx...
JAMES F. JANECEK, xx...
GAIL E. JENNINGS, xx...
JAMES M. JENNINGS, xx...
CHARLES B. JOHNSON, xx...
ERIK L. JORDE, xx...
STEPHEN E. JOSEPH, xx...
STEVEN P. JUNKERSFELD, xx...
MICHAEL A. KACHILLA, xx...
MICHAEL E. KAMPSEN, xx...
ROBERT M. KEANE, xx...
GEORGE M. KELLEY, xx...
WILLIAM G. KELLOGG, xx...
KIT M. KERKESNER, xx...
TERENCE K. KERRIGAN, xx...
JAMES H. KESSLER, IV, xx...
THOMAS M. KINNEAR, xx...
MICHAEL P. KNOBEL, xx...
WILLIAM C. KOEHLER, JR., xx...
JONATHAN A. KOLP, xx...
BRANDON J. KOSTELNY, xx...
LAWRENCE J. KOVALCHIK, xx...
JOHN M. KREITZBURG, JR., xx...
STEPHEN J. KUBIK, JR., xx...
DEMETRIOS G. KYRES, xx...
RICHARD M. LAKE, xx...
KIRK S. LAMBERT, xx...
JEFFREY M. LANCASTER, xx...
LOREN K. LANGDON, xx...
DONALD B. LANGLEY, xx...
JOHN L. LEDOUX, xx...
JOHN S. LEE, xx...
PAUL E. LEFEBVRE, xx...
RANDOLPH S. LENAC, xx...
DANIEL D. LESHCHYSHYN, xx...
THOMAS P. LHUILLIER, xx...
WILLIAM R. LISTON, xx...
THOMAS E. LLOYD, xx...
ALFREDO LONGORIA, JR., xx...
DOUGLAS C. LYNN, xx...
PETER C. MACKINNON, xx...
ROBERT A. MAGUIRE, xx...
DOUGLAS J. MARKOSKY, xx...
JOHN MARLEY, xx...
HEINZ M. MCARTHUR, xx...
KEVIN J. MCCARTHY, xx...
ROBERT A. MCCLAIN, xx...
HARRY E. MCCLAREN, xx...
TOMMY B. MCCLELLAND, JR., xx...
JAMES F. MCGOWAN, III, xx...
DAVID E. MCLEISH, xx...
SAMUEL D. MCVEY, xx...
RICHARD C. MECKEL, JR., xx...
PATRICK J. MEEHAN, xx...
WILLIAM L. MEEKS, xx...
TERENCE J. MEYER, xx...
DEAN R. MEYERAAN, xx...
DANIEL R. MILLER, xx...
DAVID S. MILLER, JR., xx...
JOHN E. MILLS, xx...
RICHARD MINGO, xx...
JOHN G. MOLTER, xx...
GREGORY A. MORRISON, xx...
SAMUEL A. MUMLEY, JR., xx...
GARY W. MUNN, xx...
BRIAN A. MURRAY, xx...
BRYAN K. MURRAY, xx...
DILLARD O. MYERS, xx...
STEVEN W. MYHRE, xx...
DONALD A. NICHOLAS, xx...
JAMES D. NICHOLS, xx...
PATRICK M. ODONOGUE, xx...
BONITA J. OLIVETT, xx...
FREDRIC M. OLSON, xx...
JEFFREY L. OLSON, xx...
GORDON C. ONEILL, xx...
GEORGE A. OSMER, xx...
JAMES A. PACE, xx...
JEFFREY J. PATTERSON, xx...
DENNIS C. PEDERSON, xx...
DAVID H. PEELER, xx...
GEORGE D. PENNY, xx...
PHILIP C. PETERSON, xx...
GARY R. PHEASANT, xx...
DANIEL J. POLLOCK, xx...
JOHN J. POMFRET, xx...
SWAIN C. POTTER, JR., xx...
JEFFREY H. POTTS, xx...
WALTER C. POWER, xx...
JEFFREY A. POWERS, xx...
LAWRENCE B. PRIOR, III, xx...
ROGER M. PRYOR, xx...
NEAL A. PUCKETT, xx...
RICHARD M. RASMUSSEN, xx...
ROBERT S. RAYFIELD, JR., xx...
JAMES M. REDMAN, xx...
LOYD W. REED, xx...
MICHAEL P. RENDON, xx...
GREGORY C. REUSS, xx...
ROGER R. RICKERT, xx...
JOSEPH R. ROBINSON, xx...
RONALD L. RODGERS, xx...
GILBERT A. RODRIGUEZ, JR., xx...
JAMES A. ROGERS, xx...
JEROME F. ROLINGER, xx...
CHARLES A. ROMANS, JR., xx...
SCOTT D. RYAN, xx...
ANGELA SALINAS, xx...
DAVID A. SALZMAN, xx...
JOHN A. SCARBOROUGH, xx...
JOHN M. SCEPUREK, xx...
MICHAEL H. SCHOELWER, xx...
MARK G. SCHULTZ, xx...
DAVID H. SEXTON, xx...
SCOTT F. SHOGREN, xx...
STEVEN C. SHULTIS, xx...
MARK D. SIFFORD, xx...
GARY F. SKINNER, xx...
HAROLD G. SMITH, JR., xx...
NEAL R. SMITH, xx...
RANDY R. SMITH, xx...
RICHARD J. SMITH, xx...
MARSHALL K. SNYDER, xx...
RICHARD F. SNYDER, xx...
MICHAEL A. SOVACOOL, xx...
JEFFREY L. SPEER, xx...
LEROY D. STEARNS, JR., xx...
GENE A. STEFFANETTA, xx...
KURT C. STINEMETZ, xx...
HARMON A. STOCKWELL, xx...
MARK D. STOTZER, xx...
PATRICK M. STRAIN, xx...
WILLIAM A. STUVER, xx...
DANIEL D. SULLIVAN, xx...
JEFFREY M. SUMMERS, xx...
GARY S. SUPNICK, xx...
JOHN R. SUTER, xx...
THOMAS B. SWARD, xx...
KENNETH W. SWELTZ, xx...
NERI G. TERRY, JR., xx...
JAMES M. THOMAS, xx...
WILLIAM G. TREADWAY, xx...
ROY E. TRUBA, xx...
JOHN A. TURNER, JR., xx...
PAUL F. TURNER, xx...
PAUL W. UNDERWOOD, xx...
ANTHONY W. VALENTINO, xx...
WILLIAM S. VANDERMEER, JR., xx...
HARVEY D. VAUGHT, xx...
DENISE M. VILLARTA, xx...
LEE J. VIVERETTE, III, xx...
DERRELL E. WADE, xx...
LAWRENCE G. WALKER, xx...
GREGORY T. WALLICK, xx...
KENNETH C. WATSON, xx...
ROBERT J. WATSON, xx...
JOHN R. WEBB, xx...
EARL S. WEDERBROOK, xx...
OTTO W. WEIGL, JR., xx...
FRANCIS J. WELSH, xx...
SCOTT WESTERVELT, xx...
DAVID E. WESTMEYER, xx...
JEFFREY A. WHITE, xx...
REGINALD F. WHITE, xx...
JOHN M. WHITELEY, xx...
STEPHEN P. WHITLOCK, xx...
KENNETH D. WICKWIRE, xx...
LANSDALE B. WILLIAMS, JR., xx...
LOXIE A. WILLIAMS, III, xx...
ROBERT L. WILLS, xx...
CHARLES L. WILSON, xx...
MICHAEL A. WOODCOCK, xx...
RICHARD N. WOODMAN, xx...
BILLY F. WOODS, xx...
JOHN L. WOZNIAK, JR., xx...
JOHN P. WURTZ, JR., xx...
WARREN M. YARBROUGH, II, xx...
THOMAS A. YOUNG, xx...

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, May 17, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 18

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 2250, to ensure that Federal lands are managed in a manner that does not impair the exercise of traditional American Indian religion.
SR-485

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Superfund and Environmental Oversight Subcommittee
To hold oversight hearings to review the General Accounting Office report on indoor radon and the Federal Government response to reduce contamination in housing.
SD-406

Finance
Business meeting, to resume consideration of the United States-Canada Free Trade Agreement signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the United States and Canada.
SD-215

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings to review the issue of cashing government checks by banks for noncustomers, and S. 2110, to provide access to check cashing services.
SD-538

Governmental Affairs
Government Efficiency, Federalism, and the District of Columbia Subcommittee
To resume hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of groundwater policy.
SD-608

Judiciary
Courts and Administrative Practice Subcommittee
Business meeting, to mark up S. 1515, to prohibit injunctive relief, or an award of damages, against a judicial office for action taken in an official capacity.
SD-226

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.
SD-366

MAY 19

9:00 a.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings on the role of U.S. and South African churches in ending apartheid.
SD-419

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for the Marine Mammal Protection Act.
SR-253

Energy and Natural Resources
To hold hearings on the Economic Regulatory Administration's prosecution of individuals in oil overcharge cases under the "central figure" theory of recovery in restitution, as adopted in *Citronelle-Mobile Gathering, Inc. et al, v. Herrington*, 826 F. 2d 16 (TECA 1987).
SD-366

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on assistive technology programs for the handicapped, including S. 1586, to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers.
SD-430

Joint Economic
Education and Health Subcommittee
To resume hearings to review the future of health care in America.
2325 Rayburn Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the Federal Savings and Loan Insurance Corporation and the thrift industry.
SD-538

Governmental Affairs
Business meeting, to mark up H.R. 3400, to provide for participation of Federal employees in political activities, and other pending calendar business.
SD-342

Judiciary
Technology and the Law Subcommittee
To hold hearings on high-tech terrorism.
SD-226

2:00 p.m.
Judiciary
To resume hearings on S. 1523, to make revisions to the Racketeer Influenced and Corrupt Organizations (RICO) statute regarding civil actions for violations.
SD-226

MAY 20

9:00 a.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold oversight hearings on the implementation of Public Law 100-276, to provide assistance and support for peace, democracy and reconciliation in Central America.
SD-419

Judiciary
To resume hearings on proposed legislation authorizing funds for the Department of Justice, focusing on activities of the civil division.
SD-226

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for technology programs of the Department of Commerce.
SR-253

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Labor and Human Resources
Handicapped Subcommittee
To continue hearings on assistive technology programs for the handicapped, including S. 1586, to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1461, to convey certain lands to the YMCA of Las Vegas, NV, S. 1687, to correct historical and geographical oversights in the establishment and development of the Utah component of the Confederated Tribes of the Goshute Reservation, S. 1849, for the relief of Mr. Conwell F. Robinson and Mr. Gerald R. Robinson, and S. 2264, to exchange certain Federal mining rights for certain lands in New Mexico.
SD-366

Finance
Social Security and Family Policy Subcommittee
To resumes hearings on the long-term status of Social Security trust funds.
SD-215

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 929, Volunteer Protection Act.
SD-226

11:00 a.m.
Judiciary
To hold hearings on the U.S.-Canada Free Trade Agreement, signed on January 2, 1988, to provide increased economic activity, higher trade levels, jobs, and enhanced competitiveness for the U.S. and Canada.
SD-226

MAY 23

8:30 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain activities of the Departments of the Interior and Energy.
S-128, Capitol

10:00 a.m.
Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold oversight hearings on the Department of the Interior's royalty management program.
SD-366

MAY 24

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor and space nuclear power research and development programs.
SD-366

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the conclusions and recommendations of the President's "Working Group on Financial Markets."
SD-538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Finance
To resume hearings on children's health care issues.
SD-215

2:30 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on tourism as an export.
SR-253

3:00 p.m.
Banking, Housing, and Urban Affairs
Business meeting, to consider S. 1776, to require U.S. coins to be redesigned, to require that one coin be redesigned to commemorate the Bicentennial of the U.S. Constitution, and to require profits from the sale of proof sets of U.S. coins to be used to reduce the national debt, H.R. 3251, to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress, certain provisions of S. 1987, to establish a separate program to provide housing assistance for Indians and Alaska Natives, proposed legislation to extend the McKinney Homeless Assistance Act, and pending nominations.
SD-538

MAY 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
To hold hearings on insurance antitrust matters.
SR-253

10:00 a.m.
Agriculture, Nuturition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on current and expected world wheat demand and the status of the United States marketing tools.
SR-332

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking industry.
SD-538

Governmental Affairs
To hold hearings on issues relative to alcoholism.
SD-342

Veterans' Affairs
To hold hearings on S. 1997, to reduce the monthly reduction of an individual's basic pay for the provision of basic educational assistance and provide for the payment to survivors of basic educational assistance paid for, but unused, by the participant, provisions of H.R. 4213, Montgomery GI Bill Amendments of 1988, and S. 2307, to make certain improvements in the educational assistance programs for veterans and eligible persons.
SR-418

2:00 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to review the local rail service assistance program and related measures, including S. 2174 and S. 2195.
SR-253

MAY 26

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-138

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1967, to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma.
SD-366

Governmental Affairs
To continue hearings on issues relative to alcoholism.
SD-342

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on the Pacific nationals.
SD-192

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the thrift industry.
SD-538

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Transportation, and the Federal Maritime Commission.
SR-232A

Finance
To resume hearings on children's health care issues.
SD-215

2:00 p.m.
Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings to review the annual report of the U.S. Postal Service.
SD-562

Select on Indian Affairs
To hold oversight hearings on the Federal Acknowledgment Petition (FAP)

process for Federal recognition of Indian tribes.
SR-485

JUNE 6

2:00 p.m.
Governmental Affairs
To hold hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

JUNE 7

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192
Governmental Affairs
To hold hearings on budget reform.
SD-342

10:00 a.m.
Appropriations
To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.
S-126, Capitol
Rules and Administration
To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of the individual for election to the office of President of the United States.
SR-301

JUNE 8

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

10:00 a.m.
Governmental Affairs
To resume hearings on issues concerning acquired immunodeficiency syndrome (AIDS).
SD-342

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review youth employment issues and related provisions of Title II of the Job Training Partnership Act.
SD-430

JUNE 9

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 2011, to increase the rate of VA compensation for veterans with service-connected disabilities and dependency and indemnity compensation for the survivors of certain disabled veterans, S. 1805, to protect certain pensions and other benefits of veterans and survivors of veterans who are entitled to damages in the case of "In re: 'Agent Orange' Product Liability Litigation", and to hold oversight hearings on activities of the Board of Veterans' Appeals, and related matters.
SR-418

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

JUNE 10

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.
S-126, Capitol

JUNE 13

9:30 a.m.
Special on Aging
To hold hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.
SD-628

JUNE 14

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
S-126, Capitol

JUNE 16

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.
SD-192

9:30 a.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342
Veterans' Affairs
To hold hearings on S. 2207, to authorize the Administrator of Veterans' Affairs to provide assistive simians and dogs to veterans who, by reason of quadriplegia, are entitled to disability compensation under laws administered by the Veterans' Administration, S. 2105, to extend for 4 years the authority of the VA to contract for drug and alcohol treatment and rehabilitation services in halfway houses and other certain community-based facilities, and S. 2294, to extend the authority of the VA to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel.
SR-418

JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
Room to be announced

JUNE 24

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on Japanese patent policy.
SR-253

JUNE 27

2:00 p.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JUNE 29

10:00 a.m.
Governmental Affairs
To resume hearings on issues relative to alcoholism.
SD-342

JULY 11

9:30 a.m.
Special on Aging
To resume hearings to examine certain problems and challenges surrounding the provision of health care to rural communities, and to review recommendations and innovative strategies to deal with these problems.
SD-628

CANCELLATIONS

MAY 19

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol